

(23,795)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1913.

No. 644.

G. & C. MERRIAM COMPANY, APPELLANT.

vs.

THE SYNDICATE PUBLISHING COMPANY.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE SECOND CIRCUIT.

INDEX.

	Page
Transcript from the district court of the United States for the southern district of New York.....	1
(See index to this transcript following.)	
Proceedings in the United States circuit court of appeals.	2094
Opinion	2094
Decree	2094
Petition for appeal	2095
Order allowing appeal.....	2096
Assignment of errors	2097
Bond on appeal.....	2098
Clerk's certificate	2102
Citation and service.....	2102

1911

Vol. I, pp. 1-913.

Vol. II, pp. 914-1552.

Vol. III, pp. 1553-2093.

INDEX.

Pleadings.

	Page.	Vol.
Bill of Complaint against Syndicate Pub. Co.....	1	I.
Amendment to Bill	55	I.
Trade-Mark Exhibits	59	I.
Answer of Syndicate Pub. Co.....	951	II.
Replication	99	I.
Pleadings in Cupples & Leon case (omitted by stipulation).....	2090	III.
Order Re-opening Case for Sur-rebuttal.....	1911	III.

Complainant's Testimony.

Adams, John Quincy		
Direct	491	I.
Cross	496	I.
Bond, Charles D.		
Direct	106	I.
Cross	108	I.
Re-direct	111	I.
Re-cross	111	I.
Baker, Harris W.		
Direct	122	I.
Cross	128	I.
Boynton, Walter I.		
Direct	180	I.
Cross	184	I.
Buddecke, Walter M.		
Direct	258	I.
Cross	262	I.
Re-direct	268	I.
Re-cross	268	I.
Re-re-direct	268	I.
Re-re-cross	266	I.
Burlingham, E. Louise		
Direct	312	I.
Cross	315	I.
Re-direct	318	I.
Re-cross	316	I.

	Page.	Vol.
Britton, Sumner C.		
Re-direct	591	I.
Cross	596	I.
Cowles, Clinton W.		
Direct	101	I.
Cross	104	I.
Cooper, Joseph C.		
Direct	111	I.
Cross	115	I.
Re-direct	118	I.
Clark, George J.		
Direct	187	I.
Cross	190	I.
Re-direct	193	I.
Re-cross	193	I.
Re-re-direct	194	I.
Re-re-cross	194	I.
Crossman, Charles P.		
Direct	202	I.
Catharine, John Paul		
Direct	347	I.
Cross	349	I.
Re-direct	350	I.
Condit, H. M.		
Direct	387	I.
Clarke, William B.		
Direct	485	I.
Cross	488	I.
Re-direct	490	I.
Conroy, Michael J.		
Direct	634	I.
Draper, Andrew S.		
Direct	500	I.
Foley, Thomas F.		
Direct	278	I.
Cross	281	I.
Re-direct	283	I.
Re-cross	286	I.
Funk, Isaac K.		
Direct	362	I.
Cross	365	I.
Re-direct	367	I.
Fisher, Edith		
Direct	434	I.
Cross	435	I.
Gifford, John L.		
Direct	239	I.
Cross	243	I.
Re-direct	248	I.

INDEX.

	Page.	Vol.
Gash, Edward		
Direct	270	I
Cross	272	I
Re-direct	275	I
Re-cross	276	I
Geldart, Richard W.		
Direct	351	I
Cross	352	I
Re-direct	353	I
Hughes, Henry E.		
Direct	320	I
Cross	324	I
Re-direct	328	I
Haymaker, Homer A.		
Direct	368	I
Cross	381	I
Re-direct	386	I
Hagarty, Laura Dunbar		
Direct	440	I
Kronvall, Edward		
Direct	210	I
Lutz, Arthur		
Direct	296	I
Cross	299	I
Re-direct	301	I
Re-cross	301	I
Monroe, Robert C.		
Direct	120	I
Cross	122	I
McCarthy, John D.		
Direct	288	I
Cross	292	I
Re-direct	293	I
McMahon, Edward J.		
Direct	302	I
Cross	305	I
Re-direct	308	I
Re-cross	310	I
Re-re-direct	311	I
Martin, George H.		
Direct	457	I
Cross	459	I
Re-direct	464	I
Mead, Edwin D.		
Direct	472	I
Cross	475	I
Re-direct	480	I
Re-cross	483	I

	Page.	Vol.
Mawson, C. O. Sylvester,		
Direct	503	I.
Cross	554	I.
Murphy, J. F.		
Direct	617	I.
Cross	622	I.
Newberry, William W.		
Direct	402	I.
Cross	403	I.
Neuchterlein, Bernard		
Direct	444	I.
O'Neill, John J.		
Direct	465	I.
Cross	466	I.
Pickett, Harry Q.		
Direct	329	I.
Cross	331	I.
Pulcifer, Irving S.		
Direct	207	I.
Putnum, Irving		
Direct	390	I.
Cross	398	I.
Porter, Levi E.		
Direct	420	I.
Cross	430	I.
Re-direct	433	I.
Recalled:		
Direct	443	I.
Recalled:		
Direct	452	I.
Rogers, Charles		
Direct	195	I.
Robinson, Louis B.		
Direct	407	I.
Seybel, Frederick W.		
Direct	249	I.
Cross	252	I.
Re-direct	256	I.
Re-cross	257	I.
Smack, Ida B.		
Direct	354	I.
Cross	356	I.
Re-direct	361	I.
Timms, Charles J.		
Direct	340	I.
Cross	343	I.
Van Dyck, Henry H.		
Direct	332	I.
Cross	338	I.
Re-direct	339	I.

INDEX.

	Page.	Vol.
Washburn, Kirk N.		
Direct	132	I.
Cross	164	I.
Re-direct	176	I.
Re-cross	178	I.
Re-re-direct	179	I.
Recalled:		
Direct	214	I.
Cross	233	I.
Re-direct	236	I.
Recalled:		
Direct	635	I.
Cross	653	I.
Re-direct	656	I.
Re-cross	657	I.
Washburn, Kirk N., Jr.		
Direct	198	I.
Wells, Halla		
Direct	416	I.
Cross	417	I.
Re-direct	419	I.
Wadlin Horace G.		
Direct	467	I.
Cross	470	I.

Complainant's Exhibits.

	Page Offered.	Page Printed.	Vol.
<i>Advertisements:</i>			
Defendant's Advertisements	174		I.
Defendant's Advertisement of May 4, 1912...	1164		II.
Additional Advertisements of defendant's book	414		I.
Washburn's Exhibit 1, pages from "The Tidings"	236		I.
Washburn's Exhibit 2, pages from "Sycamore Sentinel"	236		I.
Washburn's Exhibit 3, pages from "The Elliot Messenger"	236		I.
Washburn's Exhibit 4, pages from "The Pastor's Call"	236		I.
Washburn's Exhibit 5, pages from "The Church Invitation	236		I.
Washburn's Exhibit 6, pages from "Our Master"	236		I.
Washburn's Exhibit 7, pages from "St. John's Message"	236		I.
McCarthy's Advertisements	290		I.
McCarthy's Carton	290		I.
Lutz's Carton	302		I.

	Page Offered.	Page Printed.	Vol.
Burlingham's Carton	318		I.
Timm's Carton	341		I.
Halla Well's Carton	419		I.
Joseph Horne Co.'s Advertisement.....	621		I.
Reading Notices of Defendant's Dictionary in Pittsburg Post	621		I.
Advertisement of Defendant's Dictionary in Pittsburg Post of Feb. 12, 1911.....	622		I.
"Uncle Sam" Advertisement in Pittsburg Post	622		I.
"Uncle Sam" Advertisement clipped from Boston American of September 12, 1910....	649		I.
Specimen of Advertisements copied by de- fendant	649		I.
Dictionary Coupon used by Boston Ameri- can	640	640	I.
Dictionary Coupon used by Defendant.....	640	640	I.
Cut of defendant's dictionary sent to com- plainant	121		I.
Cut No. 1 returned to complainant.....	121		I.
Cut No. 2 returned to complainant.....	121		I.
Price-List of complainant's publications.....	659	659	I.

Copyright Certificates.

Copyright certificates relating to Crown Dic- tionary	173	162	I.
Copyright Certificates of Webster Series....	215	721	I.

Dictionaries:

<i>Complainant's Dictionaries:—</i>	Page Offered.	Vol.
Webster's Collegiate Dictionary	162	I.
Webster's Academic Dictionary	162	I.
Webster's High School Dictionary.....	162	I.
Webster's Primary Dictionary	162	I.
Webster's Common School Dictionary	162	I.
Webster's Condensed Dictionary	175	I.
Webster's Dictionary (1847 edition).....	570	I.
Webster's Dictionary (1864 edition)	570	I.
Webster's International Dictionary (1890 edition)....	570	I.
Webster's New International Dictionary (1909 edition)	570	I.

Defendant's Dictionaries:—

Webster's New Standard Dictionary.....	206	I.
Webster's New Century Dictionary.....	206	I.
Exhibit B. referred to by H. W. Baker (Webster's New Standard Dictionary)	206	I.
Exhibit C. referred to by H. W. Baker (Webster's New Century Dictionary)	206	I.
Defendant's Book compared with British Empire Dictionary	508	I.

INDEX.

vii

	Page Offered.	Vol.
Defendant's dictionaries purchased by witnesses:		
Burlingham's dictionary	318	I.
Catharine's dictionary	348	I.
Cowles dictionary	103	I.
Fisher's dictionary	434	I.
Foley's dictionary	295	I.
Gash's dictionary	295	I.
Geldart's dictionary	351	I.
Hughes' dictionary	322	I.
Lutz's dictionary	302	I.
McCarthy's dictionary	290	I.
McMahon's dictionary	304	I.
Pickett's dictionary	330	I.
Pickett's dictionary (flexible cover).....	330	I.
Pulcifer's dictionary	208	I.
Seybel's dictionary	208	I.
Timm's dictionary	341	I.
Well's dictionary	419	I.

Miscellaneous American Dictionaries:

Balch's Complete Compendium	666	I.
Century Dictionary	571	I.
Craig's Dictionary	667	I.
Crown Dictionary (Exh. A. referred to by H. W. Baker)	206	I.
Donohue's Standard New Century Dictionary.....	665	I.
Excelsior Dictionary	668	I.
Hansell's Practical Illustrated Pronouncing Pocket Dictionary	667	I.
Hurst's American Standard Dictionary	666	I.
Hurst's American Unabridged Dictionary.....	666	I.
Hurst's American Popular Dictionary	666	I.
Hurst's Handy Reliable Dictionary	667	I.
Hurst's American Diamond Pronouncing Dictionary..	667	I.
Popular American Dictionary	668	I.
Standard Dictionary (Funk & Wagnall's)	570	I.
Student's Standard Dictionary (Funk & Wagnall's)....	570	I.
Worcester's Dictionary	570	I.

Miscellaneous British Dictionaries

Annandale's Concise Dictionary	571	I.
British Empire Dictionary	507	I.
Cassell's Dictionary	571	I.
Chamber's Twentieth Century Dictionary	571	I.
Concise Oxford Dictionary	571	I.
Johnson's Dictionary (1799 edition)	570	I.
Nuttall's Dictionary	571	I.
Ogilvie's Imperial Dictionary (1883 edition).....	571	I.
Stormonth's Dictionary	571	I.
Student's Imperial Dictionary	507	I.

	Page Offered.	Page Printed.	Vol.
<i>Documents and Tables Relating to Contents and Origin of Defendant's Dictionary</i>			
Red Letter Exhibit Showing identity of defendant's dictionary with British Empire Dictionary	514	889	I.
Analysis of Price's British Empire Dictionary and defendant's Webster's New Century Dic- tionary	517	517	I.
Summary of Comparison of defendant's dic- tionary with British Empire Dictionary....	519	519	I.
British Spellings in defendant's dictionary....	525	525	I.
Cross-references in defendant's dictionary....	529	529	I.
Mixed definitions in defendant's dictionary..	533	533	I.
British definitions in defendant's dictionary..	535	535	I.
Words referred to in definitions, but not in vocabulary of defendant's dictionary.....	540	540	I.
Parallel Column Exhibit in Answer to Peck's Exhibit	551		I.
<i>Documents relating to use and Meaning of Name Webster as Applied to Dictionaries</i>			
Title Pages, Cover Inscriptions, and Copyright Notices of Webster Series.....	214	671	I.
Webster in the Courts	174	853	I.
<i>Early Contracts and Assignments</i>			
Webster Contract of 1853.....	215	783	I.
Lippincott Contract of 1858.....	215	795	I.
Contract and Assignment of University and Pocket Dictionaries	215	797	I.
Contract and Assignment of Webster's High School Dictionary	215	801	I.
Contract and Assignment of Webster's Acade- mic Dictionary	215	805	I.
Delegation of Power to Executors by Heirs..	215	809	I.
Contract between Heirs and G. & C. Mer- riam as to Abridged Dictionaries.....	215	810	I.
<i>Trade-Marks Exhibits</i>			
Registered Trade-Mark No. 1 filed with Bill..		59	I.
Registered Trade-Mark No. 2 filed with Bill..		61	I.
Registered Trade-Mark No. 3 filed with Bill..		63	I.
Registered Trade-Mark No. 4 filed with Bill..		65	I.
Registered Trade-Mark No. 5 filed with Bill..		67	I.
Registered Trade-Mark No. 6 filed with Bill..		69	I.
Registered Trade-Mark No. 7 filed with Bill..		71	I.
Registered Trade-Mark No. 8 filed with Bill..		73	I.
Registered Trade-Mark No. 9 filed with Bill..		75	I.
Registered Trade-Mark No. 10 filed with Bill..		77	I.
Certified copies of Registered Trade-Marks..	414	813	I.

Defendant's Testimony.

	Page.	Vol.
Carroll, Lauren		
Direct	1904	III.
Cross	1908	III.
Recalled:		
Direct	2040	III.
Cross	2042	III.
Doran, George Henry		
Direct	1193	II.
Cross	1197	II.
Donohue, Wm. F.		
Direct	1047	II.
Cross	1052	II.
Re-direct	1059	II.
Re-cross	1060	II.
Eckle, August E.		
Direct	1395	II.
Cross	1409	II.
Re-direct	1417	II.
Gray, William M.		
Direct	1432	II.
Cross	1438	II.
Re-direct	1454	II.
Re-cross	1532	II.
Hesslein, Max		
Direct	1001	II.
Cross	1009	II.
Re-direct	1014	II.
Re-cross	1015	II.
Leon, Arthur T.		
Direct	1240	II.
Cross	1254	II.
Re-direct	1280	II.
Re-cross	1293	II.
Little, Joseph J.		
Direct	1688	III.
Cross	1691	III.
Re-direct	1699	III.
Re-cross	1701	III.
McKnight, Robert		
Direct	1420	II.
Cross	1424	II.
Re-direct	1429	II.
Re-cross	1430	II.
Nolan, John W.		
Direct	1838	III.
Cross	1857	III.
Re-direct	1900	III.
Re-cross	1902	III.

	Page.	Vol.
Ogilvie, George W.		
Direct	1771	III.
Cross	1795	III.
Peck, Harry Thurston		
Direct	1534	II.
Cross	1562	III.
Re-direct	1677	III.
Re-cross	1684	III.
Recalled:		
Direct	1914	III.
Cross	1960	III.
Re-direct	1986	III.
Re-cross	1987	III.
Pfanstiehl, H. Josephine		
Direct	1017	II.
Cross	1020	II.
Re-direct	1021	II.
Re-cross	1022	II.
Re-re-direct	1023	II.
Rankin, Luther M.		
Direct	1024	II.
Rolfe, John Carew		
Direct	1088	III.
Cross	1994	III.
Re-direct	2017	III.
Re-cross	2020	III.
Sherwood, Robert E.		
Direct	1207	II.
Cross	1219	II.
Re-direct	1227	II.
Re-cross	1228	II.
Shultz, Herman		
Direct	1297	II.
Cross	1389	II.
Re-direct	1394	II.
Skeoch, Thomas I.		
Direct	1229	II.
Cross	1236	II.
Re-direct	1239	II.
Swift, Albert L.		
Direct	1140	II.
Cross	1149	II.
Re-direct	1182	II.
Re-cross	1186	II.
Re-re-direct	1190	II.
Re-re-cross	1192	II.
Recalled:		
Direct	1704	III.
Cross	1751	III.
Re-direct	1768	III.
Re-cross	1769	III.

INDEX.

	Page.	Vol.
Watrous, Francis M.		
Direct	2021	III.
Cross	2027	III.
Wright, Frank E.		
Direct	1061	II.
Cross	1083	II.
Re-direct	1113	II.
Re-cross	117	II.
Re-re-direct	1132	II.
Re-re-cross	1137	II.

Defendant's Exhibits.

	Page Offered.	Page Printed.	Vol.
<i>Advertisements and Newspaper Clippings</i>			
"Makers & Producers of Premium Special- ties"	1190		II.
Catalogue of Cupples & Leon with Notice...	1248		II.
Miscellaneous Newspaper Advertisements....	1706		III.
Miscellaneous Newspaper Advertisements....	1714		III.
Advertisements in connection with "Web- ster's Condensed Dictionary" cut from St. Louis Republic	1719-1733		III.
Miscellaneous Newspaper Advertisements..	1743-1747		III.
Advertisement from St. Louis Post-Dis- patch	1771		III.
Advertisements of the Springfield Union....	1854		III.
Clipping from the Springfield Republican....	1855		III.
Advertisement from "Outing," (offered at final hearing)			

Copyright Certificates

Four certificates of copyright issued to Frank E. Wright	1739	1740	III.
---	------	------	------

Dictionaries.

No. 1. "Webster's Unabridged," published for the trade	1004		II.
No. 2. Webster's National Pictorial Dictionary	1018		II.
Webster's New Illustrated Dictionary.....	1080		II.
Webster's Condensed Dictionary, Twentieth Century Edition	1082		II.
Specimen Book, Webster's New Century Dic- tionary	1247		II.
Specimen Book, Webster's New Century Dic- tionary	1248		II.
Webster's Encyclopedic Dictionary	1828		III.
Webster's Universal Dictionary	1828		III.
Webster's Reliable Dictionary	1828		III.
Webster's Adequate Dictionary	1828		III.
Hill's Vest Pocket Webster's Dictionary....	1828		III.

	Page Offered.	Page Printed.	Vol.
Wehman Brothers Latest Vest Pocket Webster's Dictionary	1828		III.
Peerless Webster Self-Pronouncing Dictionary	1828		III.
Excelsior Webster Pocket Speller and Definer	1829		III.
Webster's Pocket Dictionary and Speller.....	1829		III.
Webster's pronouncing Dictionary of the English Language	1829		III.
Hurst's Webster's Dictionary	1829		III.
A Concise Webster's Dictionary	1829		III.
Webster's Library Dictionary for Home, School and Office	1829		III.
Webster's American Standard Dictionary....	1829		III.
Webster's School and Office Dictionary.....	1830		III.
Webster's Universal Self-Pronouncing Dictionary	1830		III.
Webster's Business and College Dictionary....	1830		III.
Webster's Modern Dictionary of the English Language for Home, School and Office....	1831		III.
Laird & Lee's Webster's Modern Dictionary..	1831		III.
Laird & Lee's Webster's New Standard Dictionary of the English Language, Elementary School Edition	1831		III.
Laird & Lee's Webster's New Standard Dictionary, Intermediate School Edition.....	1831		III.
Laird & Lee's Webster's New Standard Dictionary of the English Language, Common School Edition	1831		III.
Laird & Lee's Webster's New Standard Dictionary, Illustrated Library Edition.....	1832		III.
Laird & Lee's New Standard American Dictionary, Encyclopedic Edition.....	1832		III.
Webster's Condensed Dictionary	1833		III.
An American Dictionary of the English Language, Noah Webster, published 1846 by Harper Bros.	1833		III.
John Ogilvie's "Imperial Dictionary," First Edition	1954		III.
Webster's New Illustrated, marked by Peck..	1959		III.
Webster's 1847, marked by Peck.....	1959		III.
Webster's Twentieth Century Dictionary published by the Madison Book Company, Chicago, 1902	663		I.
<i>Documents and Tables Relating to Contents and Origin of Defendant's Dictionary</i>			
"Exhibit A," Prefatory Portions of Defendant's Dictionary	1560		III.
"Exhibit B," Introductory Portions of Webster's 1847	1559		III.
"Exhibit C," Peck's Identities	1556		III.
Tables Explanatory of Peck's percentages....	1960		III.

INDEX.

xiii

	Page Offered.	Page Printed.	Vol.
<i>Documents Relating to Use and Meaning of Name Webster as Applied to Dictionaries</i>			
Cards of Witness Schultz	1308	1308	II.
Cards of Witness Gray.....	1455	1456	II.
Catalogue Cards from Library of Congress...	1780	1780	III.
Schedule produced by Witness Rankin.....	1026	1027	II.
Photographs of Covers and Title Pages of Dictionaries (Offered at Final Hearing)...			

Miscellaneous Documents:

Exhibits "A" and "B" Circular and Letter....	1132		II.
Telegram from Pittsburg Post to Swift.....	1726	1726	III.
Letter from Edward T. Roe.....	1906	1907	III.
Eleven Letters commending the Syndicate Dictionary	1706	1707	III.

Stipulations.

Substance of Stipulations.

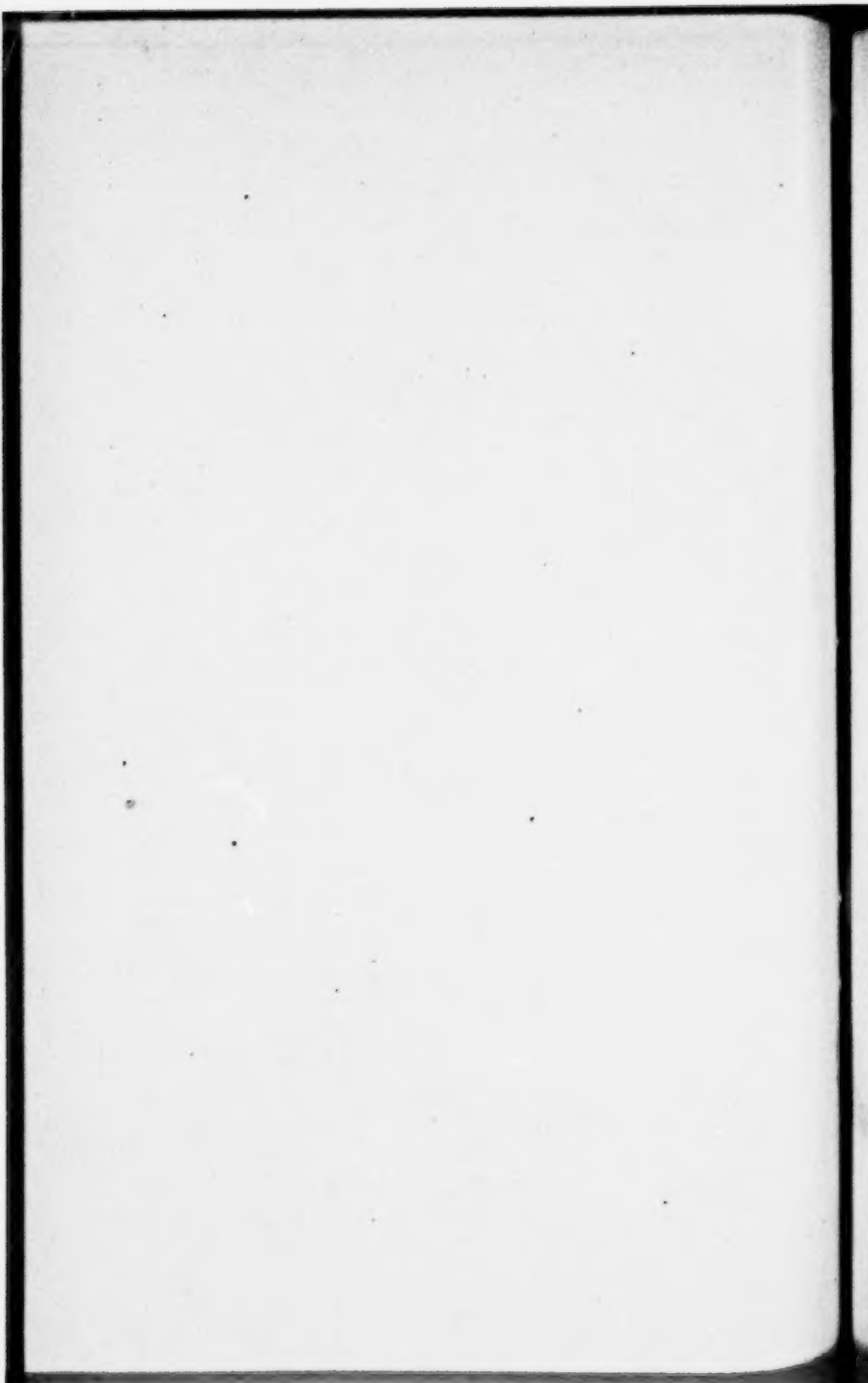
	Page.	Vol.
Taking depositions by stenographer.....	101	I.
Waiving signature of witnesses	101	I.
Inserting affidavit of Harris W. Baker.....	122	I.
Inserting affidavit of Kirk N. Washburn.....	132	I.
Exhibits referred to in Washburn affidavit.....	173	I.
Taking depositions by stenographer.....	214	I.
Waiving signatures of witnesses	214	I.
Exhibits offered in evidence to remain in possession of party offering them	257	I.
Objections to testimony	295	I.
Dictionary of Ida B. Smack.....	356	I.
Reserving objections to testimony	373	I.
Inserting affidavit of H. M. Condit.....	387	I.
Taking depositions by stenographer	416	I.
Waiving signature of witnesses	416	I.
Waiving signature of witness Wadlin	467	I.
Inserting affidavit of Andrew S. Draper.....	499	I.
Taking testimony by stenographer.....	503	I.
Reserving objections	516	I.
Taking depositions in Chicago	521	I.
Dictionaries referred to considered in evidence.....	570	I.
Taking Chicago Depositions	591	I.
Reserving objections	611	I.
Production of Dictionary Exhibits	663	I.
Waiving oath and signature of certain witnesses.....	1046	II.
Taking depositions by stenographer	1061	II.
Waiving oath and signature of certain witnesses.....	1060	II.
Waiving oath and signature of certain witnesses.....	1061	II.
Spreading on record correspondence between parties.....	1065	II.

	Page.	Vol.
Spreading on record correspondence between parties.....	1070	II.
Admitting exhibits offered with Wright affidavit.....	1080	II.
Admitting exhibits offered with Wright affidavit.....	1082	II.
Waiving oath and signature of certain witnesses.....	1140	II.
Taking depositions by stenographer	1140	II.
Waiving oath and signature of certain witnesses.....	1206	II.
Waiving oath and signature of certain witnesses.....	1228	II.
Consent that one objection apply to whole line of testimony	1234	II.
Waiving signature of certain witnesses.....	1239	II.
Spreading on record correspondence between parties.....	1243	II.
Waiving signature of certain witnesses	1297	II.
Consent that one objection apply to whole line of testimony	1304	II.
Waiving signature of certain witnesses.....	1395	II.
Consent that one objection apply to whole line of testimony	1403	II.
Setting forth letter to Eckle	1405	II.
Waiving signature of certain witnesses	1420	II.
Waiving signature of certain witnesses	1431	II.
Consent that one objection apply to whole line of testimony	1433	II.
Waiving signature of certain witnesses	1534	II.
Waiving signature of certain witnesses.....	1687	III.
Waiving signature of certain witnesses	1703	III.
Admitting newspaper advertisements in evidence.....	1732	III.
Waiving signature of certain witnesses	1771	III.
Waiving signature of certain witnesses.....	1827	III.
Admitting Saalfield Books in Evidence.....	1827	III.
Admitting in evidence twenty-two Dictionaries of various publishers	1828	III.
Taking depositions by stenographer.....	1839	III.
Waiving signature of certain witnesses.....	1904	III.
Taking depositions by stenographer	1914	III.
Waiving signature of certain witnesses.....	1914	III.
Admitting complainant's affidavits of Mawson and Haskins	2046	III.
<hr/>		
Opinion on Final Hearing.....	2057	III.
Decrees:		
Merriam v Cupples & Leon Co.....	2071	III.
Merriam v Syndicate Pub. Co.....	2072	III.
Petitions for Appeal:		
Merriam v Cupples & Leon Co.....	2073	III.
Merriam v Syndicate Pub. Co.	2078	III.
Orders Allowing Appeal:		
Merriam v Cupples & Leon Co.....	2077	III.
Merriam v Syndicate Pub. Co.....	2083	III.

INDEX.

xv

	Page.	Vol.
Assignments of Error:		
Merriam v Cupples & Leon Co.....	2074	III.
Merriam v. Syndicate Pub. Co.....	2080	III.
Appeal Bonds:		
Merriam v Cupples & Leon Co.....	2084	III.
Merriam v Syndicate Pub. Co.....	2084	III.
Citations:		
Merriam v. Cupples & Leon Co.....	2085	III.
Merriam v Syndicate Pub. Co.....	2086	III.
Orders as to Exhibits:		
Merriam v Cupples & Leon Co.....	2087	III.
Merriam v Syndicate Pub. Co.....	2088	III.
Stipulation as to Record on Appeal:.....	2089	III.
Stipulation to Abide Event.....	2091	III.
Stipulation for Certification of Record.....	2092	III.
Certificate	2093	III.



CIRCUIT COURT OF THE UNITED STATES.

SOUTHERN DISTRICT OF NEW YORK.

G. & C. MERRIAM COMPANY, a Corporation,
Complainant,

vs.

SYNDICATE PUBLISHING COMPANY, a Corporation,
Defendant.

Bill of Complaint.
Eq. 8-162.

2

To the Honorable the Judges of the Circuit Court
of the United States for the Southern District
of New York:

3

G. & C. Merriam Company, a Corporation duly organized under the laws of the State of Massachusetts, brings this its bill of complaint against the Syndicate Publishing Company, a Corporation organized and existing under the laws of the State of New York, and thereupon your orator complains and says:

I.

FIRST.—That your orator, the complainant, is a corporation duly organized under the laws of the State of Massachusetts, to wit, on or about the 29th day of March, 1892, and before the commission by the defendant of the acts hereinafter complained of, and is a citizen of said State of Massachusetts, carrying on business as a publisher and bookseller, having its main office and place of business at Springfield, in the State of

4

Bill of Complaint.

Massachusetts aforesaid, and that the defendant is a corporation organized under the laws of the State of New York, having its principal office and place of business in the Borough of Manhattan, in the Southern District of New York, and is a citizen of New York, and a resident of said Southern District of New York.

- 6 SECOND.—That prior to the year 1847 one Noah Webster was the author, proprietor and publisher of numerous books upon various subjects, among which were included several dictionaries of the English language, published respectively in or about the years 1806, 1807, 1828, 1829 and 1840, each of which was known by the name of Webster's Dictionary. That for the purpose of indicating origin and ownership of said books, said Webster caused to be plainly marked, printed or embossed upon the title page or upon the back or
- 7 cover of each of said books offered for sale the word "Webster's." That in the year 1847, and for a long time prior thereto said word Webster upon the back or cover of a book or upon the title page thereof was well understood by the public to mean that said book was prepared by or under the authority and direction of said Noah Webster, and said books enjoyed a high reputation and commanded a large sale, and the right to use the word Webster thereon became a valuable property
- 8 right.

THIRD.—That said Noah Webster deceased in or about the year 1843, having at the time of his death in course of preparation and in an advanced state of completion a new and revised edition of the previous editions of said Webster's Dictionary. That on or about the year 1847 the firm of G. & C. Merriam, then conducting business as publishers and booksellers at the City of Springfield,

Bill of Complaint.

9

in the State of Massachusetts, acquired by purchase and assignment from the executors, the heirs at law and next of kin, and the widow and children of the said Noah Webster, deceased, all the right, title and interest which said Noah Webster had in the aforesaid dictionaries, together with the good will and trade-name thereof, and said firm thereupon proceeded to complete said edition of Webster's Dictionary, employing for that purpose William G. Webster, a son, and Chauncey A. Goodrich, a son-in-law of said Noah Webster, who with numerous other editors and literary men completed said edition and said dictionary was published by said firm of G. & C. Merriam in the year 1847 under the title of "An American Dictionary of the English Language."

10

FOURTH.—That for the purpose of indicating to the public the author and compiler of said prior editions of said Dictionary and said prior editions' relation to and connection with said edition of the year 1847, and for the purpose of an assurance and guarantee to the public and to consumers and users of dictionaries in general that said edition of the year 1847 was prepared, proof read, printed, bound and published by or under the general supervision of said firm of G. & C. Merriam, said firm adopted as their own special trade-name for said Dictionary, aside from its formal title of "An American Dictionary of the English Language" the name "Webster's Dictionary," either with or without the word "Unabridged," and caused the same to be conspicuously embossed or marked or placed upon the outside or back of said Dictionary, or upon both.

11

12

FIFTH.—That by reason of the great renown of said Noah Webster as the originator and author of the earlier editions of said Dictionary.

13

Bill of Complaint.

- and by reason of the great learning and care bestowed by him in preparing the same, and by reason of the great learning, skill and care of the editors and assistants in preparing and editing the later editions thereof, and by reason of the great skill and care exercised by said firm of G. & C. Merriam in preparing, typesetting, printing, proof reading, binding, publishing and
- 14 advertising said Dictionary, it became well known and understood among the trade and by all booksellers, dealers in and users of Dictionaries and by the public in general, that all Dictionaries bearing the title "Webster's Dictionary," either alone or in combination with other words, were the Dictionaries so prepared and printed and published by said firm of G. & C. Merriam and none other, and the said title "Webster's Dictionary" both
- 15 with and without said other words became a guarantee of the accuracy of said book and a guarantee that the same had been prepared by the said G. & C. Merriam and their said editors and assistants and by none other, and a guarantee of the correctness of said book as a Dictionary of the English language, and by said name became well known as the book so prepared by the said firm of G. & C. Merriam, and by said name it was described in all printed catalogues, accounts, statements and advertisements and in all correspondence held by
- 16 said firm, and was cited as an authority in courts of law and by the public in general, and was known by all people desiring to purchase and to use a Dictionary as the book of the said G. & C. Merriam and theirs exclusively.

SIXTH.—And your orator further shows unto your Honors that subsequently the firm of G. & C. Merriam continued to print and publish said Dictionary and to sell the same by its said title "An American Dictionary of the English Lang-

Bill of Complaint.

17

uage," but more commonly by their own special trade-name or title "Webster's Dictionary," either with or without the descriptive word "Unabridged," until about the year 1864, when said G. & C. Merriam caused a new and greatly enlarged and thoroughly revised edition of said dictionary to be prepared by Noah Porter, with the assistance of said William G. Webster and Chauncey A. Goodrich, and a large corps of expert editors and assistants, and thereafter the said edition of the year 1847 was entirely withdrawn from the market. 18

That for the purpose of indicating to the public the authors of said revision and its connection with the prior editions thereof, and said prior editors' relation to our connection with said edition of the year 1864, and for the purpose of a further assurance and guarantee to the public and to consumers and users in general, that said edition of the year 1864, was prepared, proof read, printed, bound and published by or under the general supervision of the said firm of G. & C. Merriam, said firm renewed and continued as their own special trade-name for the Dictionary of 1864, aside from its formal title, the name "Webster's Dictionary," either with or without the word "Unabridged," and caused the same to be marked or placed upon the outside or back of said Dictionary, or both, as they had previously done in the case of the earlier editions thereof and which said revision was duly copyrighted according to law. 19 20

SEVENTH.—That thereafter said Dictionaries become still more widely known and highly esteemed by the trade and by the public in general by their said name of Webster's Dictionary as the literary work of said Webster and his son

21

Bill of Complaint.

and son-in-law and said Noah Porter and their said assistants, and as the typography, composition, electrotyping, printing and binding of the said firm of G. & C. Merriam and after the transfer to G. & C. Merriam & Co. and your orator as hereinafter set forth, as the typography, composition, electrotyping, printing and binding of the said G. & C. Merriam & Co. or of your orator

22 G. & C. Merriam Company respectively, and none other, by means of which the public and purchasers and users of Dictionaries had and have an assurance of the literary as well as of the typographical and mechanical quality of the goods, and of the integrity of your orator in the preparation, printing and binding of said Dictionary and of all the mechanical work employed therein.

23 EIGHTH.—Your orator further shows to your Honors that on or about the year 1867 said G. & C. Merriam caused to be prepared and printed and published a certain other Dictionary of the English Language which was an abridgment from the said American Dictionary of the English Language of Noah Webster, and the title of which was set forth on the title page thereof as follows:

24 “A Primary School Dictionary of the English Language; Explanatory, Pronouncing and Synonyms, with an appendix containing various Useful Tables; Mainly Abridged from the Latest Edition of the American Dictionary of Noah Webster, LL. D., by Wm. G. Webster and Wm. A. Wheeler. Illustrated with more than 200 Engravings on Wood,”

and which was copyrighted according to the laws

Bill of Complaint.

25

of the United States in the year 1867 by G. & C. Merriam.

That for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary's relation to and connection with said Dictionaries of the year 1847 and the year 1864, and for the purpose of further assurance and guarantee to the public and purchasers and users of Dictionaries in general that said Primary School Dictionary" of the English Language was prepared, proof read, printed, bound and published by or under the general supervision of the said firm of G. & C. Merriam, said firm also adopted and added as their own special trade-name for said Dictionary aside from its formal title of a "Primary School Dictionary of the English Language," the name "Webster's Primary School Dictionary" and caused the same to be printed or embossed upon the front cover or back or both of said Dictionary. 26 27

That by reason of the great skill and care exercised by said G. & C. Merriam in preparing said book, the same became universally known among the trade and to the public in general by its cover or outside title of Webster's Primary School Dictionary, and said cover or outside title became a guarantee of the accuracy of said book, and a guarantee that the same had been prepared by the said G. & C. Merriam and no one else and by said title or cover title or name of Webster's Primary Dictionary the same was described in all printed catalogues, accounts, statements and advertisements and in all correspondence held by the said firm with the public in general and became known by said name Webster's Primary School Dictionary by all people desiring to purchase and sell or use such a Dictionary as the book of the said G. & C. Merriam exclusively. 28

Bill of Complaint.

NINTH.—Your orator further shows to your Honors that on or about the year 1867 said G. & C. Merriam caused to be prepared and printed and published a certain other Dictionary of the English Language which was an abridgment from the said American Dictionary of the English Language of Noah Webster, and the title of which was set forth on the title page thereof as follows:

30 “A Common School Dictionary of the English Language; Explanatory; Pronouncing and Synonymous; with an Appendix containing Various Useful Tables; mainly Abridged from the latest edition of the American Dictionary of Noah Webster, LL.D., by Wm. G. Webster and Wm. A. Wheeler, Illustrated with nearly 250 Engravings on Wood,”

31 and which was copyrighted according to the laws of the United States in the year 1867 by G. & C. Merriam.

That for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary's relation to and connection with said Dictionaries of the year 1847 and the year 1864, and for the purpose of further assurance and guarantee to the public and purchasers and users of Dictionaries in general that said Com-

32 mon School Dictionary of the English Language was prepared, proof read, printed, bound and published by or under the general supervision of the said firm of G. & C. Merriam, said firm also adopted and added as their own special trade-name for said Dictionary aside from the formal title of a Common School Dictionary of the English Language, the name “Webster's Common School Dictionary” and caused the same to be printed and embossed upon the front cover or back or both of said Dictionary.

Bill of Complaint.

33

That by reason of the great skill and care exercised by said G. & C. Merriam in preparing said book, the same became universally known, among the trade and to the public in general, by its cover or outside title of Webster's Common School Dictionary, and said cover or outside title became a guarantee of the accuracy of said book, and a guarantee that the same had been prepared by said G. & C. Merriam and no one else, and by said cover title or name of Webster's Common School Dictionary the same was described in all printed catalogues, accounts, statmements and advertisements and in all correspondence held by the said firm with the public in general and became known by said name Webster's Common School Dictionary by all people desiring to purchase and sell or use such a Dictionary as the book of the said G. & C. Merriam exclusively. 34

TENTH.—Your orator further shows to your Honors that on or about the year 1867 said G. & C. Merriam caused to be prepared and printed and published a certain other Dictionary of the English Language which was an abridgment from the Quarto Dictionary of Noah Webster, LL.D., and the title of which was set forth on the title page thereof as follows: 35

“Academic Edition, A Dictionary of the English Language; Explanatory, Pronouncing, Etymological and Synonymous. With an Appendix containing Various Useful Tables; Mainly Abridged from the Latest Edition of the Quarto Dictionary of Noah Webster, LL.D., by Wm. G. Webster and Wm. A. Wheeler. Illustrated with more than 350 Engravings on Wood,” 36

and which was copyrighted according to the laws of the United States in the year 1867 by G. & C. Merriam.

That for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary's relation to and connection with said Dictionaries of the year 1847 and the year 1864, and for the purpose of further assurance and guarantee to the public and purchasers and users of Dictionaries in general that said Dictionary of the English Language was prepared, proof
 38 read, printed, bound and published by or under the general supervision of the said firm of G. & C. Merriam, said firm also adopted and added as their own special trade-name for said Dictionary aside from its formal title of "A Dictionary of the English Language" the name "Webster's Academic Dictionary" and caused the same to be printed or embossed upon the front cover or back or both of said Dictionary.

That by reason of the great skill and care exercised by said G. & C. Merriam in preparing said
 39 book, the same became universally known among the trade and to the public in general by its cover or outside title of Webster's Academic Dictionary, and said cover or outside title became a guarantee of the accuracy of said book, and a guarantee that the same had been prepared by the said G. & C. Merriam and no one else, and by said cover title or name of Webster's Academic Dictionary the same was described in all printed catalogues, accounts, statements and advertisements and in all
 40 correspondence held by the said firm with the public in general and became known by said name Webster's Academic Dictionary by all people desiring to purchase and sell or use such a Dictionary as the book of the said G. & C. Merriam exclusively.

ELEVENTH.—Your orator further shows to your Honors that on or about the year 1867 said G. & C. Merriam caused to be prepared and printed and

Bill of Complaint.

41

published a certain other Dictionary of the English Language which was an abridgment from the said Quarto Dictionary of the English Language of Noah Webster, LL.D., and the title of which was set forth on the title page thereof as follows:

“A Dictionary of the English Language; Explanatory, Pronouncing, Etymological and Synonymous; With a Copious Appendix. Mainly Abridged from the Quarto Dictionary of Noah Webster, LL.D. Revised by Chauncey A. Goodrich, DD., and Noah Porter, D.D., by Wm. A. Wheeler. Illustrated with more than 600 Engravings on Wood,”

42

and which was copyrighted according to the laws of the United States in the year 1867 by G. & C. Merriam.

That for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary's relation to and connection with said Dictionaries of the year 1847 and the year 1864, and for the purpose of further assurance and guarantee to the public and purchasers and users of Dictionaries in general that said Dictionary of the English Language was prepared, proof read, printed, bound and published by or under the general supervision of the said firm of G. & C. Merriam, said firm also adopted and added as their own special trade name for said Dictionary aside from its formal title of a Dictionary of the English Language the name “Webster's National Pictorial Dictionary,” and caused the same to be printed or embossed upon the front cover or back of said Dictionary.

43

44

That by reason of the great skill and care exercised by G. & C. Merriam in preparing said book, the same became universally known among the trade and to the public in general by its cover or outside title of Webster's National Pictorial Dic-

Bill of Complaint.

tionary, and said cover or outside title became a guarantee of the accuracy of said book, and a guarantee that the same had been prepared by the said G. & C. Merriam and no one else, and by said cover title or name of Webster's National Pictorial Dictionary the same, was described in all printed catalogues, accounts, statements and advertisements and in all correspondence held by the
 46 said firm with the public in general and became known by said name Webster's National Pictorial Dictionary by all people desiring to purchase and sell or use such a Dictionary as the book of the said G. & C. Merriam exclusively.

TWELFTH.—Your orator further shows to your Honors that on or about the year 1868 said G. & C. Merriam caused to be prepared and printed and published a certain other Dictionary of the English Language which was an abridgment from the
 47 Quarto Dictionary of the English Language of Noah Webster, LL.D., and the title of which was set forth on the title page thereof as follows:

“A High School Dictionary of the English Language; Explanatory, Pronouncing and Synonymous; With an Appendix Containing Various Useful Tables; Mainly Abridged from the Latest Edition of the Quarto Dictionary of Noah Webster, LL.D., by Wm. G. Webster and Wm. A. Wheeler. Illustrated
 48 with more than 300 Engravings on Wood,”

and which was copyrighted according to the laws of the United States in the year 1868 by G. & C. Merriam.

That for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary's relation to and connection with said Dictionaries of the year 1847 and the year 1864, and for the purpose of further assurance

Bill of Complaint.

49

and guarantee to the public and purchasers and users of Dictionaries in general that said High School Dictionary of the English Language was prepared, proof read, printed, bound and published by or under the general supervision of the said firm of G. & C. Merriam, said firm also adopted and added as their own special trade-name for said Dictionary aside from its formal title of "A High School Dictionary of the English Language" the name Webster's High School Dictionary, and caused the same to be printed or embossed upon the front cover or back or both of said Dictionary. 50

That by reason of the great skill and care exercised by said G. & C. Merriam in preparing said book, the same became universally known among the trade and to the public in general by its cover or outside title of Webster's High School Dictionary, and said cover or outside title became a guarantee of the accuracy of said book, and a guarantee that the same had been prepared by the said G. & C. Merriam and no one else, and by said cover title or name of Webster's High School Dictionary the same was described in all printed catalogues, accounts, statements and advertisements and in all correspondence held by the said firm with the public in general and became known by said name Webster's High School Dictionary by all people desiring to purchase and sell or use such a dictionary as the book of the said G. & C. Merriam exclusively. 51 52

THIRTEENTH.—Your orator further shows to your Honors that on or about the year 1870 said G. & C. Merriam caused to be prepared and printed and published a certain other Dictionary of the English language which was an abridgment from said American Dictionary of the Eng-

Bill of Complaint.

lish Language of Noah Webster, and the title of which was set forth on the title page thereof as follows:

"A Pocket Dictionary of the English Language abridged from the American edition of Noah Webster, LL.D., by William G. Webster and William A. Wheeler, illustrated with nearly 200 engravings on wood."

54

and which was copyrighted according to the laws of the United States in the year 1870 by the said G. & C. Merriam.

That for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary's relation to and connection with said Dictionaries of the year 1847 and the year 1864, and for the purpose of further assurance and guarantee to the public and purchasers and
 55 users of Dictionaries in general that said Pocket Dictionary of the English Language was prepared, proof read, printed, bound and published by or under the general supervision of the said firm of G. & C. Merriam, said firm also adopted and added as their own special trade-name for said Dictionary; aside from the formal title of "A Pocket Dictionary of the English Language," the name "Webster's Pocket Dictionary" and caused the same to be printed or embossed upon
 56 the front cover or back or both of said Dictionary.

That by reason of the great skill and care exercised by the said G. & C. Merriam in preparing said book, the same became universally known among the trade and to the public in general by its cover or outside title of "Webster's Pocket Dictionary," and said cover or outside title became a guarantee of the accuracy of said book and a guarantee that the same had been prepared by the said G. & C. Merriam and no one else, and

Bill of Complaint.

57

by said outside or cover title or name of Webster's Pocket Dictionary the same was described in all printed catalogues, accounts, statements and advertisements and in all correspondence held by the said firm with the public in general and became known by said name "Webster's Pocket Dictionary" by all people desiring to purchase and sell or use such a Dictionary as the book of said G. & C. Merriam exclusively.

58

FOURTEENTH.—Your orator further shows unto your Honors that on or about the year 1879 said G. & C. Merriam caused to be prepared and printed and published a certain other Dictionary of the English Language which was a new edition of the said Dictionary of 1864, and the title of which was set forth on the title page thereof as follows, to wit:

"An American Dictionary of the English Language, by Noah Webster, LL.D., thoroughly revised and greatly enlarged and improved by Chauncey A. Goodrich, D.D., LL.D., late professor in Yale College, and Noah Porter, D.D., LL.D., President of Yale College, with an appendix of useful tables to which is added a supplement of nearly 5,000 new words with their definitions, also a new pronouncing biographical Dictionary containing nearly 10,000 names of noted persons of ancient and modern times, giving their nationality, occupation and dates of their birth and death."

59

60

That said Dictionary was copyrighted according to the laws of the United States in the year 1879 by said G. & C. Merriam, and for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary's relation to and connection with said Dictionaries.

Bill of Complaint.

of the year 1847 and the year 1864, and for the purpose of further assurance and guarantee to the public and to all purchasers and users of Dictionaries in general that said American Dictionary of the English Language was prepared, proof read, printed bound and published by or under the general supervision of the said firm of G. & C. Merriam, said firm also adopted as their
 62 own special trade-name for their said Dictionary aside from its formal title of an "American Dictionary of the English Language" the name "Webster's Dictionary" either with or without the descriptive word "Unabridged" and caused the same to be printed or embossed upon the front cover or upon the back of each of said Dictionaries or upon both.

That by reason of the great skill and care exercised by said G. & C. Merriam in preparing
 63 said book, the same became known to the trade and to the public in general by its cover or outside title of Webster's Unabridged Dictionary, and said cover or outside title became a guarantee of the accuracy of the said book, and a guarantee that the same had been prepared by the said G. & C. Merriam and no one else, and by its said cover and outside title of Webster's Dictionary or Webster's Unabridged Dictionary the same was described
 64 in all printed catalogues, accounts, statements and advertisements and in all correspondence held by said firm with the public in general and became known by said name Webster's Dictionary or Webster's Unabridged Dictionary to all people desiring to purchase and use such a Dictionary and was cited as an authority by courts of law and Judges thereof as the Dictionary of said G. & C. Merriam exclusively.

FIFTEENTH.—Your orator further shows unto

Bill of Complaint.

65

your Honors that on or about the year 1882 said G. & C. Merriam caused to be prepared and printed and published a certain other Dictionary of the English Language which was a new edition of the said Dictionary of 1864, and the title of which was set forth on the title page thereof as follows, to wit:

“Subscription Editon, with Historical Supplement. An American Dictionary of the English Language, by Noah Webster, LL.D., thoroughly revised and greatly enlarged and improved by Chauncey A. Goodrich, D.D., late Professor in Yale College, and Noah Porter, President of Yale College. With an appendix of useful tables, to which is added a supplement of nearly 5,000 words with their definitions, etc., also a new pronouncing Bioragphical Dictionary containing nearly 10,000 names of noted persons in ancient and modern times, giving their nationality, their occupation, and the dates of their birth and death. With a Historical Supplement containing a brief history of the United States, and of each State, lives of the Presidents from Washington to Arthur, with a portrait of each, and a great variety of other valuable information.”

That said Dictionary was copyrighted according to the laws of the United States in the year 1882 by said G. & C. Merriam. That for the purpose of indicating to the public the authority and source of said Dictonary and said Dictionary's relation to and connection with said Dictionaries of the year 1847 and the year 1864, and for the purpose of further assurance and guarantee to the public and to all purchasers, sellers and users of Dictionaries in general that said

Bill of Complaint.

American Dictionary of the English Language was prepared, proof read, printed, bound and published by or under the general supervision of the said firm of G. & C. Merriam, said firm also adopted as their own special trade-name for their said Dictionary aside from its formal title of "An American Dictionary of English Language" the name "Webster's Dictionary" either
70 with or without the descriptive word "Unabridged," and caused the same to be printed or embossed upon the front cover or upon the back of said Dictionaries or upon both.

That by reason of the great skill and care exercised by the said G. & C. Merriam in preparing said book, the same became known to the trade and to the public in general by its cover or outside title of Webster's Dictionary or Webster's Unabridged Dictionary, and said outside or
71 cover title became a guarantee of the accuracy of the said book, and a guarantee that the same had been prepared by the said G. & C. Merriam exclusively and by its said cover or outside title of Webster's Dictionary or Webster's Unabridged Dictionary the same was described in all printed catalogues, accounts, statements and advertisements and in all correspondence held by said firm with the public in general and became known by said name Webster's Dictionary or Webster's
72 Unabridged Dictionary by all people desiring to purchase and use such a Dictionary and was cited as an authority by courts of law and Judges thereof as the book of the said G. & C. Merriam and of no one else.

SIXTEENTH.—On information and belief, that prior to the year 1864, complainant's predecessor, the said firm of G. & C. Merriam acquired by purchase and assignment from the owners of the

Bill of Complaint.

73

copyrights thereof, and from the respective publishers thereof, all the right, title and interest which said owners and publishers respectively had in and to all dictionaries theretofore published and sold under a name or names of which the words "Webster" or Webster's" formed a part, together with the good-will and trade-name thereof. That prior to said year 1864, all rights in all then existing "Webster" dictionaries, both 74
abridged and unabridged, became and were concentrated and vested in complainant's predecessors, said firm of G. & C. Merriam. That among the Dictionaries so acquired by complainant's said predecessor, were the following named dictionaries, to wit, "A Primary School Dictionary," copyrighted in or about the year 1838 by Noah Webster; "A Pocket Dictionary," copyrighted in or about the year 1846 by William G. Webster; a 75
dictionary abridged from the quarto edition of Noah Webster, copyrighted in or about the year 1847 by Chauncey A. Goodrich; "A High School Dictionary," copyrighted in or about the year 1848 by William E. Ellsworth and Henry White, executors of Noah Webster; "A New University Pronouncing Dictionary," copyrighted in or about the year 1856 by William E. Ellsworth and others, each and all of which said dictionaries had printed or embossed on the back or cover thereof the word "Webster's." 76

II.

FIRST.—And your orator further shows that on or about the year 1882 by a partial change in and addition to the number of members of the firm of G. & C. Merriam, the firm of G. & C. Merriam & Co. was formed, which said firm of G. & C. Merriam & Co. succeeded to all the rights of the said firm of G. & C. Merriam and the firm of G. & C. Merriam assigned and trans-

ferred their said publishing business and all their rights, title, interest and good will in and to the business and property of said firm including the exclusive right to print, publish and sell said Dictionaries and all of them, and the use of the name Webster and all other names and titles applied to said Dictionaries by said firm of G. & C. Merriam to said firm of G. & C. Merriam & Co., and which said firm of G. & C. Merriam & Co. continued to carry on business at said City of Springfield, in the State of Massachusetts, as it had been previously carried on by said firm of G. & C. Merriam, until the assignment and transfer to your orator as hereinafter set forth.

78 SECOND.—Your orator further shows unto your Honors that on or about the year 1884 said G. & C. Merriam & Co. caused to be prepared and printed and published a certain other Dictionary of the English Language, the title of which was set forth on the title page thereof as follows, to wit:

80 “A Practical Dictionary of the English Language, giving the correct spelling, pronunciation and definition of words, with an appendix containing various useful tables chiefly derived from Webster’s Unabridged Dictionary; edited under the supervision of Noah Porter, D.D., LL.D., President of Yale College. By Dorsey Gardner. With nearly 1,500 illustrations.”

That said Dictionary was copyrighted according to the laws of the United States in the year 1884 by said G. & C. Merriam & Co., and for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary’s relation to and connection with said Dictionaries of the year 1847 and the year 1864, and for the purpose of further assurance and guarantee to

Bill of Complaint.

81

the public and to all purchasers, sellers and users of Dictionaries in general that said Practical Dictionary was prepared, proof read, printed, bound and published by or under the general supervision of the said firm of G. & C. Merriam & Co., said firm also adopted as their own special trade-name for their said Dictionary aside from its formal title of "A Practical Dictionary of the English Language" the name "Webster's Practical Dictionary" and caused the same to be printed upon the top of the title page and also printed or embossed upon the front cover or upon the back of each of said Dictionaries or upon both. 82

That by reason of the great skill and care exercised by the said G. & C. Merriam & Co. in preparing said book, the same became known to the trade and to the public in general by its cover or outside title of Webster's Practical Dictionary, and said outside or cover title became a guarantee of the accuracy of the said book, and a guarantee that the same had been prepared by the said G. & C. Merriam & Co., and by its said outside or cover title of Webster's Practical Dictionary the same was described in all printed catalogues, accounts, statements and advertisements and in all correspondence held by said firm with the public in general and became known by said name Webster's Practical Dictionary by all people desiring to purchase and use such a Dictionary as the book of the said G. & C. Merriam & Co. exclusively. 83 84

THIRD.—Your orator further shows unto your Honors that on or about the year 1884 said G. & C. Merriam & Co. caused to be prepared and printed and published a certain other Dictionary of the English Language which was a new edition of the said Dictionary of 1864, and the title of which was set forth on the title page thereof as follows, to wit:

85

Bill of Complaint.

86

"New Edition with Supplement. An American Dictionary of the English Language. By Noah Webster, LL.D., thoroughly revised and greatly enlarged and improved by Chauncey A. Goodrich, D.D., late Professor in Yale College, and Noah Porter, D.D., LL.D., President of Yale College. With an appendix of useful tables to which is added a Supplement of nearly 5,000 new words with their definitions, etc. A New Pronouncing Gazetteer of the World, containing names of over 25,000 places, also a new Pronouncing Biographical Dictionary containing nearly 10,000 names of noted persons in ancient and modern times."

87

88

That said Dictionary was copyrighted according to the laws of the United States in the year 1884 by the said G. & C. Merriam & Co., and that for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary's relation to and connection with the said Dictionaries of the year 1847 and the year 1864, and for the purpose of further assurance and guarantee to the public and to all purchasers, sellers and users of Dictionaries in general that said American Dictionary of the English Language was prepared, proof read, printed, bound and published by or under the general supervision of the said G. & C. Merriam & Co., said firm also adopted as their own special trade-name for their said Dictionary aside from its formal title of "An American Dictionary of the English Language" the name "Webster's Dictionary" either with or without the descriptive word "Unabridged," and caused the same to be printed or embossed upon the front cover or upon the back of each of said Dictionaries or upon both.

That by reason of the great skill and care exer-

cised by the said G. & C. Merriam & Co. in preparing said book, the same became known to the trade and to the public in general by its cover or outside title of Webster's Dictionary or Webster's Unabridged Dictionary, and said title became a guarantee of the accuracy of the said book, and a guarantee that the same had been prepared by the said G. & C. Merriam & Co. exclusively, and by its cover or outside title of Webster's Dictionary or Webster's Unabridged Dictionary the same was described in all printed catalogues, accounts, statements and advertisements and in all correspondence held by said firm with the public in general, and became known by said name Webster's Dictionary or Webster's Unabridged Dictionary by all people desiring to purchase and use such a Dictionary as the book of the said G. & C. Merriam & Co. exclusively.

FOURTH.—Your orator further shows unto your Honors that on or about the year 1884 said G. & C. Merriam & Co. caused to be prepared and printed and published a certain other Dictionary of the English Language, the title of which was set forth on the title page thereof as follows, to wit:

“A Condensed Dictionary of the English Language with copious etymological derivations, pronunciations, spelling and appendixes for general reference; chiefly derived from the Unabridged Dictionary of Noah Webster, LL.D. Edited under the supervision of Noah Porter, DD., LL.D., President of Yale College. By Dorsey Gardner; with over 1,500 illustrations.”

That said Dictionary was copyrighted according to the laws of the United States in the year 1884 by the said G. & C. Merriam & Co. and for the purpose of indicating to the public the authority and

Bill of Complaint.

source of said Dictionary and said Dictionary's relation to and connection with said Dictionaries of the year 1847 and the year 1864, and for the purpose of further assurance and guarantee to the public and to all purchasers, sellers and users of Dictionaries in general that said American Dictionary of the English Language was prepared, proof read, printed,
 94 bound and published by or under the general supervision of the said G. & C. Merriam & Co. said firm also adopted as their own special trade-name for their said Dictionary aside from its formal title "A Condensed Dictionary" the name "Webster's Condensed Dictionary" and caused the same to be printed or embossed upon the front cover or upon the back or both of each of said Dictionaries and also prefixed the same to the title as their own special trade-name.

95 That by reason of the great skill and care exercised by the said G. & C. Merriam & Co. in preparing said book, the same became known to the trade and to the public in general by its cover or outside title of Webster's Condensed Dictionary, and said outside cover title became a guarantee of the accuracy of the said book, and a guarantee that the same had been prepared by the said G. & C. Merriam & Co. exclusively, and by its said cover or outside title of Webster's Condensed Dictionary the same was described in all printed catalogues, accounts, statements and advertisements
 96 and in all correspondence held by said firm with the public in general and became known by said name Webster's Condensed Dictionary by all people desiring to purchase, sell and use such a Dictionary as the book of the said G. & C. Merriam & Co. exclusively.

FIFTH.—Your orator further shows unto your Honors that on or about the year 1890 said G. & C.

Bill of Complaint.

97

Merriam & Co. caused to be prepared and printed and published a certain other Dictionary of the English Language, the title of which was set forth on the title page thereof as follows, to wit:

“Webster’s International Dictionary of the English Language. Being the authentic edition of Webster’s Unabridged Dictionary comprising issues of 1864, 1879 and 1884. Now thoroughly revised and enlarged under the supervision of Noah Porter, D.D., LL.D., of Yale University. With a voluminous appendix.” 98

That said Dictionary was copyrighted according to the laws of the United States in the year 1890 by said G. & C. Merriam & Co.

That the name “Webster” was embodied in the title and printed or embossed upon the front cover and back of each of said Dictionaries in addition to the words “International Dictionary,” for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary’s relation to and connection with said Dictionaries of the years 1828, 1841, 1847, 1859, 1864, 1879, 1882 and 1884, and for the purpose of further assurance and guarantee to the public and to all purchasers, sellers and users of Dictionaries in general that said Webster’s International Dictionary was prepared, proof read, printed, bound and published by or under the general supervision of the said firm of G. & C. Merriam & Co. and the words “Webster’s Dictionary” either with or without the word “International” became the trade-name and distinguishing mark of said Dictionary. 99. 100.

That by reason of the great care and skill exercised by the said G. & C. Merriam & Co. in preparing said book and placing same upon the market,

101

Bill of Complaint.

the same became known to the trade and to the public in general by its cover or outside title of Webster's International Dictionary, but more commonly by the name Webster's Dictionary, said word International being used merely to distinguish said Dictionary from the earlier editions thereof, and said word Webster became a guarantee of the accuracy of said book, and a guarantee that same had been prepared by the said G. & C. Merriam & Co. exclusively, and said word Webster was used in describing said book in all printed catalogues, accounts, statements and advertisements, and in all correspondence held by said firms with the public in general, and said book became known as Webster's Dictionary or Webster's International Dictionary, by all people desiring to purchase and use such a Dictionary, and by said name was cited as an authority by courts of law and Judges thereof as the book of said G. & C. Merriam & Co. exclusively.

103

III.

FIRST.—And your orator further shows that on or about the year 1892, your orator was duly created a corporation by and under the laws of the State of Massachusetts as hereinbefore set forth, and thereupon the said publishing business of said firm of G. & C. Merriam & Co. and the right, title interest and good will of said firm in and to said business and property including the exclusive right to print, publish and sell said Dictionaries and all of them, and to use the name Webster and all other names and titles applied to said Dictionaries by the said firms G. & C. Merriam and G. & C. Merriam & Co. were duly assigned and transferred to and became legally vested in your orator, and your orator thereafter continued to carry on said publishing business at

104

Bill of Complaint.

105

said City of Springfield in the State of Massachusetts as it had previously been carried on by said G. & C. Merriam and G. & C. Merriam & Co.

SECOND.—Your orator shows further unto your Honors that subsequently on or about the year 1892, your orator, said G. & C. Merriam Co. caused to be prepared and printed and published a certain other Dictionary of the English Language, the title of which was set forth on the title page thereof as follows, to wit: 106

“A Dictionary of the English Language; designed for use in the Primary Schools. Abridged from Webster’s International Dictionary; 400 illustrations.”

That said Dictionary was copyrighted according to the laws of the United States in the year 1892 by said G. & C. Merriam Co., and that for 107 the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary’s relation to and connection with said Dictionaries of the year 1847 and the year 1864 and 1890, and for the purpose of further assurance and guarantee to the public and to all purchasers, sellers or users of Dictionaries in general that said Primary Dictionary was prepared proofread, printed, bound and published by or under the general supervision of your orator, 108 your orator also adopted as its own special trade-name for said Dictionary aside from its formal title the words “Webster’s Primary School Dictionary,” and caused the same to be printed upon the top of the title page and also printed or embossed upon the front cover or back of each of said Dictionaries or upon both.

That by reason of the great skill and care exercised by your orator in preparing said book,

Bill of Complaint.

the same became known to the trade and to the public in general by its cover or outside title of Webster's Primary Dictionary, and said cover or outside title became a guarantee of the accuracy of the said book, and a guarantee that the same had been prepared by your orator, the said G. & C. Merriam Co. exclusively, and by its said cover or outside title of Webster's Primary Dictionary

110 the same was described in a l printed catalogues, accounts, statements and advertisements and in all correspondence held by said firm with the public in general and became known as Webster's Primary Dictionary by all people desiring to purchase, sell and use such a Dictionary as the book of your orator, the said G. & C. Merriam Co. exclusively.

THIRD.—Your orator further shows unto your

111 Honors that on or about the year 1892 said G. & C. Merriam Co. caused to be prepared and printed and published a certain other Dictionary of the English Language, the title of which was set forth on the title page thereof as follows, to wit:

“A Dictionary of the English Language with an appendix containing a pronouncing vocabulary of biblical, classical, mythological, historical and geographical proper names. Abridged from Webster's International Dictionary; 800 illustrations.”

112

That said Dictionary was copyrighted according to the laws of the United States in the year 1892 by your orator, said G. & C. Merriam Co. and for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary's relation to and connection with said Dictionaries of the year 1847 and the year 1864 and 1890, and for the purpose of further assur-

Bill of Complaint.

113

ance and guarantee to the public and to all purchasers, sellers and users of Dictionaries in general that said Webster's High School Dictionary was prepared, proof read, printed, bound and published by or under the general supervision of the said G. & C. Merriam Co., your orator also adopted as its own special trade-name for its said Dictionary aside from its formal title the words "Webster's High School Dictionary," and caused the same to be printed upon the top of the title page and also printed or embossed upon the front cover or upon the back of each of said Dictionaries or upon both. 114

That by reason of the great skill and care exercised by the said G. & C. Merriam Co. in preparing said book, the same became known to the trade and to the public in general by its cover or outside title of Webster's High School Dictionary, and said title became a guarantee of the accuracy of the said book, and a guarantee that the same had been prepared by your orator, the said G. & C. Merriam Co., exclusively, and by its said cover or outside title of Webster's High School Dictionary the same was described in all catalogues, accounts, statements and advertisements and in all correspondence held by said firm with the public in general and became known by said name Webster's High School Dictionary by all people desiring to purchase, sell or use such a Dictionary as the book of your orator, said G. & C. Merriam Co. exclusively. 115 116

FOURTH.—Your orator further shows unto your Honors that on or about the year 1892 your orator, the said G. & C. Merriam Co. caused to be prepared and printed and published a certain other Dictionary of the English Language, and the title of which was set forth on the title page thereof as follows, to wit:

117

Bill of Complaint.

“A Dictionary of the English Language, designed for use in common schools. Abridged from Webster’s International Dictionary; 500 illustrations.”

That said Dictionary was copyrighted according to the laws of the United States in the year 1892 by your orator, said G. & C. Merriam Co., and for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary’s relation to and connection with the said Dictionaries of the year 1847 and the year 1864 and the year 1890, and for the purpose of further assurance and guarantee to the public and to all purchasers, sellers and users of Dictionaries in general that said Common School Dictionary was prepared, proof read, printed, bound and published by or under the general supervision of your orator, your orator also adopted as its own special trade-name for its said Dictionary aside from its formal title the words “Webster’s Common School Dictionary,” and caused the same to be printed upon the top of the title page and also printed or embossed upon the front cover or upon the back of each of said Dictionaries or upon both.

119

120

That by reason of the great skill and care exercised by your orator in preparing said book, the same became known to the trade and to the public in general by its cover or outside title of Webster’s Common School Dictionary, and said cover or outside title became a guarantee of the accuracy of the said book, and a guarantee that the same had been prepared, printed and published by the said G. & C. Merriam Co. exclusively, and by its said cover or outside title “Webster’s Common School Dictionary” the same was described in all printed catalogues, accounts, statements and advertisements and in all correspondence held by your orator with the public in general and became known

Bill of Complaint.

121

by said name Webster's Common School Dictionary by all people desiring to purchase, sell or use such a Dictionary as the book of your orator, the said G. & C. Merriam Co. exclusively.

FIFTH.—Your orator further shows onto your Honors that on or about the year 1895 your orator caused to be prepared and printed and published a certain other Dictionary of the English Language, and the title of which was set forth on the title page thereof as follows, to wit: 122

“A Dictionary of the English Language, giving derivations, pronunciations, definition and synonyms of a large vocabulary of words in common use; with an appendix containing various useful tables. Abridged from Webster's International Dictionary; over 800 illustrations.”

123.

That said Dictionary was copyrighted according to the laws of the United States in the year 1895 by your orator, and for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary's relation to and connection with said Dictionaries of the year 1847 and the years 1864, 1890 and 1892, and for the purpose of further assurance and guarantee to the public and to all purchasers, sellers and users of Dictionaries in general that said Dictionary was prepared, proof read, printed, bound and published by or under the general supervision of the said G. & C. Merriam Co., your orator also adopted as its own special trade-name for its said Dictionary aside from its formal title the words “Webster's Academic Dictionary,” and caused the same to be printed upon the top of the title page and also printed or embossed upon the front cover or upon the back of each of said Dictionaries or upon both. 124

125

Bill of Complaint.

That by reason of the great skill and care exercised by the said G. & C. Merriam Co. in preparing said book, the same became known to the trade and to the public in general by its cover or outside title of Webster's Academic Dictionary, and said cover or outside title became a guarantee of the accuracy of the said book and a guarantee that the same had been prepared by your orator, the said
 126 G. & C. Merriam Co. exclusively, and by its said name Webster's Academic Dictionary the same was described in all printed catalogues, accounts, statements and advertisements and in all correspondence held by said firm with the public in general and became known by said name Webster's Academic Dictionary by all people desiring to purchase and use such a Dictionary as the book of your orator, the said G. & C. Merriam Co. exclusively.

127

SIXTH.—Your orator further shows unto your Honors that on or about the year 1896 said G. & C. Merriam Co. caused to be prepared and printed and published a certain other Dictionary of the English Language, the title of which was set forth on the title page thereof as follows, to wit:

128

“A Dictionary of the English Language giving the derivations, pronunciations, definitions and synonyms of a large vocabulary of the words in common use. With an appendix containing commercial and various other useful tables, mainly abridged from Webster's International Dictionary; over 800 illustrations.”

That said Dictionary was copyrighted according to the laws of the United States in the year 1895 by said G. & C. Merriam Co., and for the purpose of indicating to the public the authority and

source of said Dictionary and said Dictionary's relation to and connection with the Dictionaries previously published and sold by your orator or its predecessors and for the purpose of further assurance and guarantee to the public and to all purchasers, sellers and users of Dictionaries in general that said Dictionary was prepared, proof read, printed, bound and published by or under the general supervision of the G. & C. Merriam Co., your orator also adopted as its own special trade-name for its said Dictionary aside from its formal title the words "Webster's Counting House and Family Dictionary," or "Webster's Counting House Dictionary," and caused the same to be printed upon the top of the title page and also to be printed or embossed upon the front cover or upon the back of each of said Dictionaries or upon both. 130

That by reason of the great skill and care exercised by the said G. & C. Merriam Co. in preparing said book, the same became known to the trade and to the public in general by its cover or outside title of Webster's Counting House Dictionary, and said cover or outside title became a guarantee of the accuracy of the said book, and a guarantee that the same had been prepared by your orator exclusively, and by its said cover or outside title of Webster's Counting House Dictionary the same was described in all printed catalogues, accounts, statements and advertisements and in all correspondence held by said firm with the public in general and became known by said name Webster's Counting House Dictionary by all people desiring to purchase, sell or use such a Dictionary as the book of your orator, the said G. & C. Merriam Co. exclusively. 131 132

SEVENTH.—Your orator further shows unto your Honors that on or about the year 1898 said

133

Bill of Complaint.

G. & C. Merriam Co. caused to be prepared and printed and published a certain other Dictionary of the English Language, the title of which was set forth on the title page thereof as follows, to wit:

134

“A Dictionary of the English Language. Giving the derivations, pronunciations, definitions and synonyms of a large vocabulary of the words occurring in Literature, Art, Science, and the common speech, with an Appendix containing a copious Scotch Glossary, a pronouncing vocabulary of Proper Names, and various useful tables mainly abridged from Webster’s International Dictionary; over 1,000 illustrations.”

135

That said Dictionary was copyrighted according to the laws of the United States in the year 1898 by said G. & C. Merriam Co., and for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary’s relation to and connection with the Dictionaries previously published and sold by your orator or its predecessors and for the purpose of further assurance and guarantee to the public and to all purchasers, sellers and users of Dictionaries in general that said Dictionary was prepared, proof read, printed, bound and published by or under the general supervision of the said G. & C. Merriam Co., your orator also adopted as its own special trade-name for its said Dictionary, aside from its formal title, the words Webster’s Collegiate Dictionary and caused the same to be printed upon the top of the title page and also to be printed or embossed upon the front cover or upon the back of each of said Dictionaries or upon both.

136

That by reason of the great care and skill exercised by the said G. & C. Merriam Co. in prepar-

ing said book, the same became known to the trade and to the public in general by its cover or outside title of Webster's Collegiate Dictionary, and said cover or outside title became a guarantee of the accuracy of the said book, and a guarantee that the same had been prepared by the said G. & C. Merriam Co. exclusively, and by its said cover or outside title of Webster's Collegiate Dictionary the same was described in all printed catalogues, accounts, statements and advertisements and in all correspondence held by said firm with the public in general and became known by said name Webster's Collegiate Dictionary by all people desiring to purchase, sell or use such a Dictionary as the book of your orator, the said G. & C. Merriam Co., exclusively. 138

EIGHTH.—Your orator further shows unto your Honors that on or about the year 1900 said G. & C. Merriam Co. caused to be prepared and printed and published a certain other Dictionary of the English Language, the title of which was set forth on the title page thereof as follows, to wit: 139

“New Edition with Supplement of New Words. Webster's International Dictionary of the English Language, being the authentic Edition of Webster's Unabridged Dictionary, comprising the issues of 1864, 1879 and 1884. Thoroughly revised and much enlarged under the supervision of Noah Porter, DD., LL.D. With a voluminous appendix to which is now added a Supplement of 25,000 words and phrases. W. T. Harris, Ph.D., LL.D., editor in chief.” 140

That said Dictionary was copyrighted according to the laws of the United States in the year 1900, by said G. & C. Merriam Co.

Bill of Complaint.

That the name "Webster" was embodied in the title and printed or embossed upon the front cover and upon the back of each of said dictionaries in addition to the words "International Dictionary," for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary's relation to and connection with said Dictionaries of the years 1828, 1841, 1847,
 142 1859, 1864, 1879, 1882, 1884, and 1890, and for the purpose of further assurance and guarantee to the public and to all purchasers, sellers and users of Dictionaries in general that said Webster's International Dictionary was prepared, proof read, printed, bound and published by or under the general supervision of said G. & C. Merriam Co., and the words "Webster's Dictionary" either with or without the word "International" became the trade-name and distinguishing mark of said Dic-
 143 tionary.

That by reason of the great care and skill exercised by the said G. & C. Merriam Co. in preparing said book and placing same upon the market, the same became known to the trade and to the public in general by its cover or outside title of Webster's International Dictionary, but more commonly by the name Webster's Dictionary, said word International being used merely to distinguish said Dictionary from the earlier editions thereof, and said word Webster became a guaran-
 144 tee of the accuracy of said book, and a guarantee that the same had been prepared by the said G. & C. Merriam Co. exclusively, and said word Webster was used in describing said book in all printed catalogues, accounts, statements, and advertisements, and in all correspondence held by said company with the public in general, and said book became known by said name Webster's Dictionary or Webster's International Dictionary, by all people desiring to purchase and use such a Diction-

Bill of Complaint.

145

ary, and by said name was cited as an authority by the courts of law and Judges thereof, as the book of the said G. & C. Merriam Co. exclusively.

NINTH.—Your orator further shows unto your Honors that on or about the year 1900, said G. & C. Merriam Co. caused to be prepared and printed and published a certain other Dictionary of the English Language, the title of which was set forth on the title page thereof as follows, to wit: 146

“Reference History Edition. Webster’s International Dictionary of the English Language. Being the Authentic edition of Webster’s Unabridged Dictionary, comprising the issues of 1864, 1869 and 1884. Thoroughly revised and much enlarged under the supervision of Noah Porter, D.D. LL.D. 147 With a voluminous appendix and reference history to which is now added a Supplement of 25,000 words and phrases. W. T. Harris, Ph.D., LL.D., Editor in Chief.”

That said Dictionary was copyrighted according to the laws of the United States in the year 1900 by said G. & C. Merriam Co.

That the name “Webster” was embodied in the title and printed or embossed upon the front cover and upon the back of each of said Dictionaries in addition to the words “International Dictionary,” for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary’s relation to and connection with said Dictionaries of the years 1828, 1841, 1847, 1864, 1879, 1882, 1884, 1890 and 1900, and for the purpose of further assurance and guarantee to the public and to all purchasers, sellers 148

Bill of Complaint.

and users of Dictionaries in general that said Webster's International Dictionary was prepared, proof read, printed, bound and published by or under the general supervision of the said G. & C. Merriam Co., and the words "Webster's Dictionary" either with or without the word "International" became the trade-name and distinguishing mark of said Dictionary.

- 150 That by reason of the great care and skill exercised by the said G. & C. Merriam Co. in preparing said book and placing same upon the market, the same became known to the trade and to the public in general by its cover or outside title of Webster's International Dictionary, but more commonly by the name Webster's Dictionary, said word International being used merely to distinguish said Dictionary from the earlier editions thereof, and said word Webster became
- 151 a guarantee of the accuracy of said book, and a guarantee that the same had been prepared by the said G. & C. Merriam Co. exclusively, and said word Webster was used in describing said book in all printed catalogues, accounts, statements and advertisements, and in all correspondence held by said Company with the public in general, and said book became known by said name Webster's Dictionary or Webster's International Dictionary, by all people desiring to purchase and use such a Dictionary, and by said name
- 152 was cited as an authority by courts of law and Judges thereof, as the book of the said G. & C. Merriam Co. exclusively.

TENTH.—And your orator further shows that whenever the original copyright of the several dictionaries of your orator or its several predecessors was about to expire, the persons lawfully entitled to a renewal of said respective copy-

Bill of Complaint.

153

rights, duly renewed said several copyrights respectively, according to the Revised Statutes of the United States in such case made and provided, and thereupon duly assigned said several renewed copyrights to your orator or to such of its said predecessors as was then lawfully entitled to print, publish and sell said books respectively as the owner of the original copyright thereof.

154

IV.

And your orator further shows that the Dictionaries prepared and published by your orator or its predecessors, as hereinbefore set forth, comprise two separate series, viz., a series of unabridged or exhaustive Dictionaries, and a series of smaller Dictionaries abridged from the unabridged edition and designed for special uses or for use by particular classes of persons.

Said series of unabridged Dictionaries is composed of the Compendious Dictionary of the year 1806, and the successive editions of the American Dictionary published, as hereinbefore set forth, in the years 1828, 1840, 1847, 1859, 1864, 1879, 1882, 1884, 1890 and 1900. The Dictionary of each of said years (except the first) was a new and revised edition of the last preceding edition of said Dictionary and upon the publication of each of said successive editions the prior edition of said Dictionary was substantially withdrawn from the market, and thereafter the latest edition of said Dictionary alone was known among the trade and by purchasers and users of said Dictionary as Webster's Dictionary, and all previous editions of said Dictionary were supplanted and made obsolete by said successive new editions, and thereafter no copies of said earlier and obsolete editions were printed or sold by your orator or its predecessors, except to a limited ex-

155

156

tent and upon special orders calling for copies of a particular edition, and with this exception, no copies of said earlier editions could be purchased except as second-hand books, in consequence whereof the name Webster as applied to dictionaries has always been understood by the trade and by purchasers and users of said dictionaries to mean the latest edition of said dictionaries published by your orator or its predecessors.

The various Dictionaries constituting said series of abridged Dictionaries published by your orator or its predecessors, as hereinbefore set forth, were revised and new editions thereof were published from time to time, whereupon the previous editions of said several Dictionaries respectively were substantially withdrawn from the market, and thereafter the latest editions of said Dictionaries alone were known among the trade and by purchasers and users of said dictionaries as Webster's Dictionaries, and all previous editions of said dictionaries were supplanted and made obsolete by said successive new editions, and thereafter no copies of said earlier and obsolete editions were printed or sold by your orator or its predecessors, and none could be purchased except as second-hand books, in consequence whereof the name Webster as applied to dictionaries has always been understood by the purchasers and users of said dictionaries to mean the latest editions of said dictionaries published by your orator or its predecessors.

Your orator further shows unto your Honors that on or about the year 1903 said G. & C. Merriam Co. caused to be prepared and printed and published a certain other Dictionary of the English Language, the title of which was set forth on the title page thereof as follows, to wit:

“An American Dictionary of the English

Bill of Complaint.

161

Language by Noah Webster, LL.D. Thoroughly revised and greatly enlarged and improved by Chauncey A. Goodrich, D.D., late Professor in Yale College, and Noah Porter, D.D., LL.D., President of Yale College. With an Appendix of useful tables including recent population statistics of the World and a supplement of more than Five Thousand Words and Phrases."

162

That said Dictionary was copyrighted according to the laws of the United States in the year 1903 by said G. & C. Merriam Co., and for the purpose of indicating to the public the authority and source of said Dictionary and said Dictionary's relation to and connection with said Dictionaries of your orator and its predecessors, and for the purpose of further assurance and guarantee to the public and to all purchasers, sellers and users of Dictionaries in general that said Dictionary was prepared, proof read, printed, bound and published by or under the general supervision of the said G. & C. Merriam Co., said Company adopted as their own special trade-name for said Dictionary aside from its formal title the words Webster's Unabridged Dictionary, and caused the same to be printed upon the top of the title page and also printed or embossed upon the front cover and upon the back of each of said Dictionaries.

163.

164

That by reason of the great care and skill exercised by the said G. & C. Merriam Co. in preparing said book, the same became known to the trade and to the public in general by its cover or outside title of Webster's Unabridged Dictionary, but more commonly by the name Webster's Dictionary, said word "Unabridged" being used merely to distinguish said edition from the Inter-

165

Bill of Complaint.

166

national edition of said Webster's Dictionary, and said cover or outside title became a guarantee of the accuracy of the said book, and a guarantee that the same had been prepared by the said G. & C. Merriam Co. exclusively, and by the said name of Webster's Unabridged Dictionary the same was described in all printed catalogues, accounts, statements and advertisements and in all correspondence held by said Company with the public in general and became known by said name Webster's Dictionary or Webster's Unabridged Dictionary by all people desiring to purchase and use such a Dictionary as the book of the said G. & C. Merriam Co. exclusively.

167

That said Dictionary was a new edition of the aforesaid Dictionary of 1879 and was designed and put upon the market for the purpose of supplying the demand for a modern low-priced genuine Webster Dictionary, and not as a new and later edition of said Webster's International Dictionary, and both said Webster's Unabridged Dictionary and said Webster's International Dictionary are now being offered for sale and sold by your orator by their said respective names or titles.

168

Your orator further shows unto your Honors that in or about the year 1909, said G. & C. Merriam Co. caused to be prepared, and printed and published a certain other dictionary of the English Language, and title of which was set forth on the title page thereof, as follows:

"Webster's New International Dictionary of the English Language, based on the International Dictionary of 1890 and 1900. Now completely revised in all departments, including also a Dictionary of geography, and of biography, being the latest authentic quarto edition of the Merriam series. W. T.

Bill of Complaint.

169

Harris, Ph. D., LL.D., Editor in Chief, F. Sturgis Allen, General Editor."

That said Dictionary was duly copyrighted according to the laws of the United States, in the year 1909 by said G. & C. Merriam Co.

That the name "Webster's " was embodied in the title and printed or embossed upon the front cover and back of each of said Dictionaries in addition to the words "New International Dictionary," for the purpose of indicating to the public the authority and source of said Dictionary, and said Dictionary's relation to and connection with said Dictionaries of the years 1828, 1841, 1847, 1859, 1864; 1879, 1882, 1884, 1890, and 1900, and for the purpose of further assurance and guarantee to the public and to all purchasers, sellers and users of Dictionaries in general that said "Webster's New International Dictionary" was prepared, proof read, printed, bound and published by or under the general supervision of the said G. & C. Merriam Co., and the words "Webster's Dictionary," either with or without the words "New" and "International" became and are the trade-name and distinguishing mark of said Dictionary.

That by reason of the great care and skill exercised by said G. & C. Merriam Co., in preparing said book, and placing same upon the market, the same became known to the trade and to the public in general, by its cover or outside title of "Webster's New International Dictionary." Said words "New International," being used merely to distinguish said Dictionary from the earlier edition thereof, and said word "Webster" became a guarantee of the accuracy of said book, and a guarantee that the same had been prepared by the said G. & C. Merriam Co. exclusively, and said word "Webster" was used

Bill of Complaint.

in describing said book in all printed catalogues, accounts, statements and advertisements, and in all correspondence held by your orator with the public in general, and said book became known as "Webster's Dictionary" by all people desiring to purchase and use such a Dictionary, and by said name was cited as an authority by courts of law and Judges thereof as the book of G. & C. Merriam

174 Co. exclusively.

V.

FIRST.—And your orator further shows that in obtaining the necessary skill in preparing the manuscript of said Dictionaries, and in preparing the electrotype plates from which said Dictionaries have been printed, and in printing, binding and publishing and advertising said Dictionaries, said firm of G. & C. Merriam and said firm of G. & C. Merriam & Co. and your orator have expended very large sums of money, to wit, many hundreds of thousands of dollars.

175

That for more than fifty years last past your orator or its predecessors have continuously and without interruption had upon the market and have offered for sale and sold Dictionaries of the English Language prepared or caused to be prepared as to their literary matter by your orator or its predecessors or one of them upon principles first enunciated by said Noah Webster, and continually enlarged, expanded and amplified by educated and learned professors and editors or their assistants, and typeset, electrotyped, proof read, printed, bound and published by skilled mechanics and artisans, all under the general charge and direction and at the expense of your orator or its said predecessors or one of them, each and all of which said Dictionaries have borne the title and have been known and described and recognized by the public as the work of your orator or its

176

said predecessors or one of them by their said trade-name or title of Webster's Dictionaries, and that your orator and its said predecessors have at all times and under all circumstances and by all means in their power maintained, asserted and insisted upon their exclusive right to the word Webster as their special trade-name as applied to Dictionaries of the English Language.

178

VI.

That by reason of the long continued use by your orator and by its predecessors under whom it rightfully claims, and also by reason of the acquiescence of the public in general it has come to be understood and believed by the people and the public, especially by retail dealers and buyers and sellers of Dictionaries that all Dictionaries bearing the name of Webster's either with or in combination with other titles or names are the literary and mechanical production of your orator, and by reason thereof, and by reason of the literary and mechanical skill, industry and enterprise of the said G. & C. Merriam and the said G. & C. Merriam & Co. and of your orator and of their several and respective editors and mechanics in producing said Dictionaries as well in their literary as in their mechanical construction and in advertising and calling the attention of the public to the same, a large demand has been created for its said Dictionaries by said trade-name of Webster's Dictionaries and by which said name the same have been and now are associated in the minds of the public and of purchasers, dealers in and users of Dictionaries with that of said G. & C. Merriam or G. & C. Merriam & Co. or your orator as the makers thereof, and is the genuine trade-name of your orator or its predecessors as aforesaid, and has been for upwards of fifty years and is now

179

180

181

Bill of Complaint.

recognized and acquiesced in as such by the public generally and by dealers in and users of Dictionaries as indicating to the public and to said dealers and users the origin of said Dictionaries, and that they are your orators' production and manufacture and have the superior quality of your orator for which the same has become well known and distinguished by the public; and thereby your orator has acquired for itself a large and lucrative trade as well in the United States as also in all parts of the world where the English Language is either used or studied, from which large and increasing profits are accruing and are likely to accrue except for the wrongful acts of the defendant and others conspiring with it as hereinafter set forth.

VII.

183 Your orator further shows, on information and belief, that defendant, well knowing the premises, and intending to injure and defraud your orator and to deprive it of making sales of your orator's said dictionaries or some of them, and intending to impose upon and defraud the public in general, by inducing the public to believe that they were purchasing or could purchase from the defendant, dictionaries which had been prepared by or under the general supervision of said G. & C. Merriam or said G. & C. Merriam & Co., or one of them, or
 184 your orator, or its corps of authors, editors and compilers, and which had been type set, electrotyped, printed, corrected, bound and published by said firms or one of them, or by your orator, at a much less rate than your orator's uniform charge therefor, since the first day of January, 1911, and before the beginning of this suit, against the will of your orator and in defiance of its rights, has offered for sale and sold, and has offered induce-

Bill of Complaint.

185

ments to the public to make purchases of, and to order from it dictionaries described as follows, to wit:

Dictionaries bearing both upon the title page, and upon the front cover and back thereof, or upon one of them, the title "Webster's New Standard Dictionary," in manner and form, and in imitation of the titles and words stamped or printed upon your orator's said dictionaries, and in such manner that said dictionaries resemble Dictionaries belonging to your orator's said series of Dictionaries, and might readily be mistaken therefor, or for a later and succeeding edition thereof, by purchasers and users of Dictionaries, and by the public in general, a copy of which said Dictionary is filed herewith as an exhibit, and marked, "Complainant's Exhibit, Defendant's Dictionary." 186

And your orator further shows that said Dictionaries of defendant are not the product, either literary or mechanical, of your orator, or of any of its said predecessors, or of its said corps of editors, authors, or compilers, or any of them, and that said Dictionaries do not belong to either of said series of Abridged and Unabridged Dictionaries of your orator. 187

And your orator further shows that the use of the name "Webster's" as the designating title and description of defendant's said Dictionaries is unnecessary, false, and deceptive in every sense of the term; that Webster is not the author of said Dictionaries; that said dictionaries are not copies or reproductions of any Dictionary which has ever, at any time, borne the name or been described as a "Webster" Dictionary; that said Dictionaries are not copies or reproductions of any of your orator's said Dictionaries, which are copyrighted, owned, and published by your orator ex- 188

Bill of Complaint.

clusively, and are the Dictionaries now known as "Webster's" Dictionaries; that by reason of the said false and deceptive use of the name "Webster's," as the designating title and description of defendant's said book, your orator is informed and believes, and so charges the fact to be, the public have been and are likely to be deceived and led to purchase one or more of defendant's said

190 Dictionaries in the belief that it is one of the hereinbefore described Dictionaries of your orator, or that it is an edition, or the latest edition of one of the said series of dictionaries of your orator, and, upon information and belief, many purchasers have actually been thus deceived.

And your orator further shows that in the prosecution of its said fraudulent purpose, defendant purchased or otherwise acquired the plates of a certain old dictionary published and copyrighted in to wit, the year 1904, under the name and title of "The Crown Dictionary," and thereupon defendant changed the name or title thereof, and dropped the words "Crown Dictionary," and substituted in lieu thereof the words "Webster's New Standard Dictionary," and in order to make it appear that its said Dictionary was a new production, defendant also omitted the former copyright notice which contained the date "1904," and substituted in lieu thereof a new copyright notice bearing the date "1911," and

191 also placed in the publisher's imprint at the foot of the title page the date 1911; that the purpose and effect of these changes was to conceal the true origin and identity of defendant's said Dictionary, and to lead purchasers and the public in general to buy defendant's said Dictionary in the belief that it is a new Dictionary first published in the year 1911, and that it is one of your orator's said series of "Webster's" Dictionaries, or a later or the latest edition thereof, whereas the true fact is

192

Bill of Complaint.

193

that defendant's said Dictionary is a republication of said old "Crown Dictionary," and is printed from the same plates, or duplicates thereof, except as to a small amount of prefatory and supplemental matter, having no relation to the vocabulary or dictionary proper.

And your orator further shows that defendant's said Dictionaries have been widely advertised and announced under the designating name and description of "Webster's Dictionary" and "Webster's New Standard Dictionary," which said advertisements and announcements are false, ambiguous and misleading, and tend to deceive the public, and to pass off defendant's said Dictionaries as and for the Dictionaries of your orator. 194

And your orator further shows, upon information and belief, that said defendant purposes and threatens to continue to sell and offer for sale its said dictionaries entitled and marked as aforesaid, and to continue to publish and circulate said notices and advertisements in manner and form as aforesaid, and to publish and circulate other similar or equally misleading and damaging notices and advertisements, and is thereby threatening to cause, and is now causing, and necessarily will continue to cause your orator great loss in its said trade; and that purchasers have actually been deceived into buying one or more of the above-entitled books of defendant as and for the genuine book of your orator, or as and for an edition or the latest edition of one of the series of dictionaries published by your orator and its predecessors, as hereinbefore set forth; and that your orator's business and reputation has also been and is likely to be further injured because the Dictionaries so made and sold by defendant are defective and of an inferior quality, both in their literary as well as in their mechanical construction, by reason whereof the long established and 195 196

Bill of Complaint.

well-earned reputation of your orator in those regards has been and is likely to be greatly and permanently damaged, to wit: in the sum of Five Thousand Dollars and upwards.

All in defiance of the rights acquired by and secured to your orator as aforesaid, and to its great and irreparable loss and injury, and by which it has been and is still being and necessarily
 198 will be deprived of great gains and profits which it might and otherwise would have obtained, but which have been received and enjoyed, and are being received and enjoyed by said defendant by and through the aforesaid unlawful acts and doings.

VIII.

And your orator further shows unto your Honors that the value of the exclusive right in
 199 your orator to use and employ said word "Webster's" as the whole or a part of the title of said Dictionaries or either of them, and to use the same in publishing, selling and advertising for sale and in marketing said Dictionaries or either of them, exceeds exclusive of interest and costs, the sum of Fifty thousand dollars, and that the damage inflicted upon your orator by reason of the wrongful conduct of the defendant as hereinbefore stated exceeds the sum of Five thousand dollars
 200 exclusive of interest and costs, and that the matter in dispute between your orator and the defendant; exceeds exclusive of interest and costs said sum or value of Five thousand dollars.

And your orator further shows unto your Honors, on information and belief, that said defendant has printed or caused to be printed and sold large numbers of said Dictionaries and has large quantities on hand, which it is now offering for sale and is proposing to continue to offer for

Bill of Complaint.

201

sale, and has made and realized considerable profits and advantage therefrom, but to what extent and how much exactly, your orator does not know, and prays discovery thereof. And your orator says that the publication and sale of said Dictionaries by said defendant and its preparation for and avowed determination to continue the same, in disregard and defiance of the rights of your orator have the effect to and do encourage 202 and induce others to do the same.

IX.

And forasmuch as your orator can have no adequate relief except in this Court, to the end therefore, that the said defendant may, if it can, show why your orator should not have the relief hereby prayed, and may according to its best and utmost knowledge, remembrance, information, and belief, full, true, direct and perfect answers make to the premises, and to all the several matters hereinbefore stated and charged, as well those in regard to which it is herein severally and separately interrogated as also the matters hereinbefore stated in general, but not under oath, the oath being hereby specifically waived, and to account for and pay to your orator the profits by it acquired, and the damages suffered by your orator from the aforesaid unlawful acts; 203

204

And that said defendant, its agents, servants, attorneys, and workmen, and each and every of them be restrained and enjoined provisionally and perpetually by the order and injunction of this Honorable Court from directly or indirectly using the word "Webster's," either alone or in association with any other word, in connection with the publication and sale of its said dictionaries, as the name of, or as descriptive of, such

205

Bill of Complaint.

dictionaries, or in any other manner without clearly distinguishing such dictionaries from the dictionaries of your orator, and especially from selling and offering for sale its said dictionaries under the name or title of "Webster's New Standard Dictionary," and from publishing and circulating any notices or advertisements wherein its said dictionaries are designated by a name or

206 title in which the word Webster or Webster's appears, either alone or in connection with other words or any other notices or advertisements in such manner and form that the natural and probable tendency and effect, thereof will be to deceive and mislead the public into purchasing said dictionaries as and for the genuine dictionaries of your orator, or as and for an edition of, or the latest edition of either of the said series of dictionaries published by your orator and its

207 predecessors, as aforesaid and that the defendant may be decreed to pay the cost of this suit; and that your orator may have such further relief, or such other relief, as to this Honorable Court shall seem meet, and as shall be agreeable to equity.

May it please your Honor to grant unto your crator the writ of injunction, as well provisional as perpetual, issuing out of and under the seal of this Honorable Court, commanding, enjoining

208 and restraining the said defendant, and its servants, agents, attorneys and workmen, and each and every of them, as is hereinbefore in that behalf prayed.

May it please your Honors to grant your orator the writ of subpoena, issuing out of and under the seal of this Honorable Court, directed to the said defendant the Syndicate Publishing Company commanding it by a certain day, and under a certain penalty, to be and appear in this

Bill of Complaint.

209

Honorable Court, then and there to answer the premises, and to stand to and abide such order and decree as may be made against it.

And your orator will ever pray, &c.

JUDSON & HALE,
Complainant's Solicitors.

WILLIAM B. HALE,
Of Counsel.

210

The defendant is required to answer the interrogatories hereto annexed marked 1 and 2.

JUDSON & HALE,
Complainant's Solicitors.

INTERROGATORIES.

1. Whether or not the defendant, or its agents or servants, or one of them, have since the first day of January, 1911, offered for sale or sold one or more copies of said dictionaries hereinbefore described, entitled "Webster's New Standard Dictionary," either with or without other words, the Dictionaries in question being those a copy of which is filed as an exhibit herein marked: "Complainant's Exhibit, Defendant's Dictionary?" 211

2. How many of said Dictionaries have been sold by said defendant and how many has it now on hand? 212

UNITED STATES OF AMERICA, }
State of Massachusetts, } ss.:
County of Hampden, }

On this 8th day of Nov., 1911, before me personally appeared Orlando M. Baker, to me known to be the President of G. & C. Merriam Co., complainant above named, who being by me duly

213

Bill of Complaint.

sworn, deposes and says that he is the President of the complainant herein. That he has read the foregoing Bill of Complaint and knows the contents thereof, and that the same is true of his own knowledge except as to the matters therein stated to be alleged on information and belief, and as to those matters he believes it to be true. That the reason why this verification is not made

214 by the complainant is that said complainant is a corporation of which this affiant is an officer, to wit, the President

ORLANDO M. BAKER.

Sworn to before me this 8th)
day of Nov., 1911. }

[SEAL] CHARLES S. CLEAVES,
Notary Public,
Springfield, Mass.

215 (County Clerk's certificate.)

216

CIRCUIT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

G. & C. MERRIAM COMPANY, a Cor-
poration,
Complainant,

vs.

SYNDICATE PUBLISHING COMPANY, a
Corporation,
Defendant.

Amendment
to bill.

218

Now comes the complainant in the above entitled cause, and amends its bill of complaint herein, as follows, to wit:

FIRST.—Insert at the end of subdivision No. VI, at the foot of page 21 of the bill of complaint as filed herein, the following new matter:

And your orator further shows that by reason of the use aforesaid, the name “Webster’s” has become, and now is the genuine trade-mark of your orator, for its said dictionaries, and that at the time of the adoption of said trade-mark by your orator’s said predecessors, as hereinbefore set forth, no other person, firm or corporation engaged in the manufacture, publication or sale of dictionaries was using the said word “Webster’s” as a trade-mark or as a designation to designate their goods from those of others, to the best of your orator’s knowledge, information, and belief, and that your orator, and its said predecessors had the legal right to appropriate and use said word “Webster’s” as a lawful trade-mark for its said dictionaries.

219.

220

And your orator further shows that heretofore, and prior to the time of the committing of the grievances by defendant hereinafter complained of, and for the better protection of the trade and good-will of your orator in its said dictionaries, your orator adopted and used, and is now using

certain trade-marks consisting of the word "Webster's" in combination and association with other words or features, which said trade-marks your orator caused to be duly registered in the Patent Office of the United States, in accordance with the statute in such case made and provided, as follows, to wit:

222 On September 23rd, 1890, a trade-mark consisting of the words "Webster's International Dictionary," surrounded by a circle, and surmounted by a monogram enclosed in a wreath, a Patent Office copy of which is hereto annexed, and marked, "Complainant's Exhibit, Registered Trade-mark No. 1."

223 On March 26, 1895, a trade-mark consisting of the word "Webster's" surrounded by a circle, and surmounted by a monogram, enclosed in a wreath, a Patent Office copy of which is hereto annexed, and marked, "Complainant's Exhibit, Registered Trade-mark No. 2."

On January 1, 1907, a trade-mark consisting of the words "Webster's Academic," a Patent Office copy of which is hereto annexed, and marked, "Complainant's Exhibit, Registered Trade-mark No. 3."

224 On January 1, 1907, a trade-mark consisting of the words "Webster's Common School," a Patent Office copy of which is hereto annexed, and marked, "Complainant's Exhibit, Registered Trade-mark No. 4."

On January 1, 1907, a trade-mark consisting of the words "Webster's Practical," a Patent Office copy of which is hereto annexed, and marked, "Complainant's Exhibit, Registered Trade-mark No. 5."

On January 1, 1907, a trade-mark consisting of the words "Webster's High School," a Patent Office copy of which is hereto annexed, and marked, "Complainant's Exhibit, Registered Trade-mark No. 6."

On January 1, 1907, a trade-mark consisting of

the words "Webster's Condensed," a Patent Office copy of which is hereto annexed, and marked, "Complainant's Exhibit, Registered Trade-mark No. 7."

On January 8, 1907, a trade-mark consisting of the words "Webster's National Pictorial," a Patent Office copy of which is hereto annexed, and marked, "Complainant's Exhibit, Registered Trade-mark No. 8."

226

On January 1, 1907, a trade-mark consisting of the words "Webster's Primary," a Patent Office copy of which is hereto annexed, and marked "Complainant's Exhibit, Registered Trade-mark No. 9."

On January 1, 1907, a trade-mark consisting of the words, "Webster's Counting House and Family," a Patent Office copy of which is hereto annexed, and marked, "Complainant's Exhibit, Registered Trade-mark No. 10."

All of which will more fully and at large appear by certificates of said registrations, or copies thereof, duly certified by the Patent Office and here in court to be produced.

227

SECOND.—Insert in said bill, at the foot of page 25 thereof, and immediately after the words, "to pass off defendant's said dictionaries as and for the dictionaries of your orator," the following new matter, to wit:

And your orator further shows that defendant has unlawfully and in violation of our orator's rights, as aforesaid, appropriated, used, and imitated your orator's said trade-marks upon its said dictionaries, and that defendant has done this by printing, stamping or otherwise affixing to its said dictionaries the word "Webster's" in a manner closely imitating your orator's said registered trademarks or one of them, and which might be readily mistaken therefor by purchasers and the public in general, and the natural and probable tendency and effect of which is to

228

Amendment to Bill.

deceive the public, and to pass off defendant's said dictionaries as and for the dictionaries of your orator."

THIRD.—Insert in the prayer for relief, in paragraph No. IX, of said bill, at about the middle of page 27 thereof, and immediately following the words, "Webster's New Standard Dictionary,"
 230 the following words, to wit:

And from in any manner copying, imitating, or infringing any of your orator's said registered trade-marks.

Dated, New York, November 27, 1911.

JUDSON & HALE,

Solicitors for Complainant.

WILLIAM B. HALE,

Counsel for Complainant.

231 UNITED STATES OF AMERICA,]
 State of Massachusetts, }ss.:
 County of Hampden,]

ORLANDO M. BAKER, being first duly sworn, deposes and says: I am the President of G. & C. Merriam Company, the complainant above named. I have read the foregoing amendment to the bill of complaint herein, and know the contents thereof, and the same is true to my own knowledge, except as to the matters therein stated to be alleged
 232 on information and belief, and as to those matters, I believe it to be true. The reason why this verification is not made by the complainant, is that said complainant is a corporation, and not capable of making this affidavit.

ORLANDO M. BAKER.

Subscribed and sworn to before me}
 this 27 of November, 1911. }

CHARLES S. CLEAVES,

[SEAL]

Notary Public,
 Springfield, Mass.

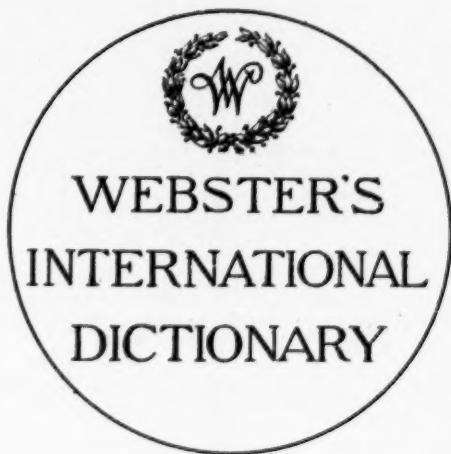
TRADE-MARK.

G. & C. MERRIAM & CO.
DICTIONARIES.

No. 18,449.

Registered Sept. 23, 1890.

(Complainant's Exhibit,
Registered Trade-Mark No. 1.)



Witnesses

Geo. W. Breck

C. E. Sullivan

G. & C. Merriam & Co

Proprietors

By their Attorney

Charles Hudson

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM & CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES.

STATEMENT and DECLARATION of Trade-Mark No. 18,449, registered September 23, 1890.

Application filed August 15, 1890.

STATEMENT.

To all whom it may concern:

Be it known that we, G. & C. MERRIAM & CO., a firm domiciled and having an office and place of business in the city of Springfield, in the county of Hampden and State of Massachusetts, and composed of HOMER MERRIAM, GEORGE S. MERRIAM, ORLANDO M. BAKER, and H. CURTIS ROWLEY, residing at and citizens of said city of Springfield; BIRDSEYE BLAKEMAN and GEORGE R. CATHCART, residing at and citizens of the city, county, and State of New York; HENRY IVISON and DAVID B. IVISON, residing at and citizens of Rutherford, county of Bergen, and State of New Jersey, and L. HENRY BLAKEMAN, residing at and a citizen of Orange in the county of Essex and State of New Jersey, have adopted for our use a Trade-Mark for books, more especially Dictionaries, of which the following is a full, clear, and exact description.

Our trade-mark consists of an interwoven script cipher composed of the capital letters "N" and "W" partially surrounded by a wreath of flowers, leaves, or the like, the whole surmounting the words "Webster's International Dictionary." These have generally been arranged as shown in the accompanying fac-simile—i. e., in the form of a medallion upon the upper face of which is printed or embossed said interwoven script cipher "N

"W," said cipher being partially surrounded by a wreath of flowers or leaves, beneath which are the letters and words "Webster's International Dictionary," and the whole being placed within a circle, so as to form a medallion, all the other parts of said trade-mark, except the interwoven cipher "N W" and the words "WEBSTER'S INTERNATIONAL," which are essential features, being changeable at pleasure at our option without materially altering the character of our trade-mark.

This trade-mark in its entirety has been used continually in business by us since July 31, 1890.

The class of merchandise to which this trade-mark is appropriated is books, and the particular description of books comprised in such class on which it is used by us is dictionaries.

It has been our practice to stamp or print our said trade-mark on the title-page of the dictionaries and to stamp or emboss the same upon the outside or cover thereof, and also to print the same upon the outside of parcels containing said dictionaries, or to print the same upon tags or labels, which are secured to the goods in any desired manner.

G. & C. MERRIAM & CO.

Witnesses:

CHAS. S. CLEAVES,
A. G. BAKER.

DECLARATION.

State of Massachusetts, county of Hampden,
SS:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is a member of the firm the applicant named in the foregoing statement; that he verily believes that the foregoing statement is true; that the said firm at this time has a right to the use of the trade-mark therein described; that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to

deceive; that the trade-mark is used by the said firm in commerce between the United States and foreign nations, and particularly with England, and that the description and fac-similes presented for record truly represent the trade-mark sought to be registered.

ORLANDO M. BAKER.

Sworn and subscribed before me, a notary public, this 7th day of August, 1890.

[L. S.] EDWARD MORRIS,
Notary Public.

TRADE-MARK.

G. & C. MERRIAM COMPANY.
EDUCATIONAL BOOKS.

No. 26,273.

Registered Mar. 26, 1895.

(Complainant's Exhibit,
Registered Trade-Mark No. 2.)



WEBSTER'S
ACADEMIC
DICTIONARY

WITNESSES:

Paul S. Ober
A. H. Hayes

PROPRIETOR:

G. & C. Merriam Company
BY
Charles A. Johnson

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM COMPANY, OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR EDUCATIONAL BOOKS.

STATEMENT and DECLARATION of Trade-Mark No. 26,273, registered March 26, 1895.

Application filed February 21, 1895.

STATEMENT.

To all whom it may concern:

Be it known that the G. & C. MERRIAM COMPANY, a corporation organized under the laws of Massachusetts, and located in the city of Springfield, county of Hampden, and State of Massachusetts, has adopted for its use a Trade-Mark for Books, of which the following is a full, clear, and exact specification.

The said trade-mark consists in a monogram composed of the capital letters "N" and "W" together with the word "Webster's." These have generally been arranged as shown in the accompanying fac-simile; i. e., in the form of a medallion, upon the face of which is printed or embossed said monogram composed of the interwoven script letters "N W" partially surrounded by a wreath of flowers or leaves beneath which is the word "Webster's" together with such other word or words as may indicate the character of the book upon which it is placed, the whole being placed within a circle so as to produce in general effect the medallion-like appearance. These features are all shown in black in the accompanying drawing but any other design or color may be used or the different features may be differently colored or all or part of the non-essential features may be omitted or changed at pleasure and the mark may be used in conjunction with other matter with-

out materially affecting the character of the trade-mark, the essential features of which are the monogram composed of the letters "N" and "W" together with the word "WEBSTER'S."

This trade-mark in its entirety has been used continuously in business by said company since October, 1890.

The class of merchandise to which this trade-mark is appropriated is books and the particular description of books comprised in such class on which it is used by said company is educational books.

It has been the practice of said company to stamp or print its said trade-mark on the title page of the books and to stamp or emboss the same upon the outside or cover thereof, and also to print the same upon the outside of parcels containing said books or to print the same upon tags or labels.

[L. s.] G. & C. MERRIAM CO.,
By O. M. BAKER,
Treasurer.

Approved: HOMER MERRIAM,
President.

Witnesses:
THOS. H. STOCK,
A. G. BAKER.

DECLARATION.

State of Massachusetts, county of Hampden.

ss:

ORLANDO M. BAKER being duly sworn, deposes and says that he is the treasurer of the corporation named in the foregoing statement; that he verily believes that the foregoing statement is true; that said corporation has at this time a right to the use of the trade-mark therein described; that no other person, firm or corporation has a right to such use either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that it is used by said corporation

in commerce between the United States and foreign nations or Indian tribes and particularly with the Dominion of Canada and the Hawaiian Islands and Great Britain, and that the description and fac-similes presented for record truly represent the trade-mark sought to be registered.

ORLANDO M. BAKER.

Sworn to and subscribed before me, a notary public, this 13th day of February, 1895.

[L. s.] CHARLES S. CLEAVES,
Notary Public.

TRADE-MARK.

No. 59,188.

REGISTERED JAN. 1, 1907.

G. & C. MERRIAM CO.

DICTIONARIES AND REFERENCE MANUALS.

APPLICATION FILED MAY 11, 1906.

(Complainant's Exhibit,
Registered Trade-Mark No. 3.)

WEBSTER'S
ACADEMIC

Proprietor
G. & C. Merriam Co.
by Hall & Heylman

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES AND REFERENCE-MANUALS.

No. 59,188.

Statement and Declaration.

Registered Jan. 1, 1907.

Application filed May 11, 1906. Serial No. 19,430.

STATEMENT.

To all whom it may concern:

Be it known that G. & C. MERRIAM CO., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at No. 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing.

The trade-mark has been continuously used in the business of said corporation since 1892 and in the business of its predecessor since 1867.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of goods comprised in said class upon which

said mark is used is dictionaries and reference manuals or combined dictionary and reference-manual.

The trade-mark is usually displayed upon the goods by imprinting or impressing the same directly upon the books and upon the packages in which the books are wrapped.

[I. s.] G. & C. MERRIAM CO.,
By H. C. ROWLEY,
Treasurer.

Approved: O. M. BAKER,
President.

Witnesses:
BERTON E. HALE,
ALBERT BOEDEKER.

DECLARATION.

State of Massachusetts, county of Hampden,
ss:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement, that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief has the right to use said trade-mark either in the identical form or in any such near resemblance thereto which might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several States of the

United States; that the description, drawing and facsimiles presented truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or its predecessors from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such use has been exclusive.

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.

[I. s.] CHAS. S. CLEAVES,
Notary Public.

TRADE-MARK.

No. 59,189.

REGISTERED JAN. 1, 1907.

G. & C. MERRIAM CO.

DICTIONARIES.

APPLICATION FILED MAY 11, 1906.

(Complainant's Exhibit,
Registered Trade-Mark No.4.)

WEBSTER'S
COMMON SCHOOL

Proprietor
G. & C. Merriam Co.
by Hall & Higginson
Attorneys

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES.

No. 59,189.

Statement and Declaration.

Registered Jan. 1, 1907.

Application filed May 11, 1906. Serial No. 19,432.

STATEMENT.

To all whom it may concern:

Be it known that G & C. MERRIAM Co., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at No. 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing

The trade-mark has been continuously used in the business of said corporation since 1892 and in the business of its predecessor since 1867.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of

goods comprised in said class upon which said mark is used is dictionaries.

The trade-mark is usually displayed upon the goods by imprinting or impressing the same directly upon the books and upon the packages in which the books are wrapped.

[L. s.]

G. & C. MERRIAM CO.,
By H. C. ROWLEY,
Treasurer.

Approved

O. M. BAKER.
President.

Witnesses:

BERTON E. HALE,
ALBERT BOEDEKER.

DECLARATION.

State of Massachusetts, county of Hampden,
ss:

ORLANDO M BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief has the right to use said trade-mark either in the identical form or in any such near resemblance thereto which might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several

States of the United States; that the description, drawing and facsimiles truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or its predecessors from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such use has been exclusive

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.

[L. s.]

CHAS. S. CLEAVES,
Notary Public.

TRADE-MARK.

No. 59,192.

REGISTERED JAN. 1, 1907.

G. & C. MERRIAM CO.

DICTIONARIES AND REFERENCE MANUALS.

APPLICATION FILED MAY 17, 1908.

(Complainant's Exhibit,
Registered Trade-Mark No. 5.)

WEBSTER'S
PRACTICAL

Proprietor
G. & C. Merriam Co.
by Hall & Appleman
attys

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES AND REFERENCE-MANUALS.

No. 59,192.

Statement and Declaration.

Registered Jan. 1, 1907.

Application filed May 17, 1906. Serial No. 19,616.

STATEMENT.

To all whom it may concern:

Be it known that G. & C. MERRIAM CO., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at No. 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing.

The trade-mark has been continuously used in the business of said corporation since 1892.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of goods comprised in said class upon which said mark is used is dictionaries and reference-

manuals or combined dictionary and reference-manuals.

The trade-mark is usually displayed upon the goods by printing or impressing the same directly upon the books and upon the packages in which the books are arranged.

[L. s.] G. & C. MERRIAM CO.,

By H. C. ROWLEY,
Treasurer.

Approved:

O. M. BAKER,
President.

Witnesses:

BERTON E. HALE,
RICHARD S. BETTES.

DECLARATION.

State of Massachusetts, county of Hampden,
ss:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use said trade-mark either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several States of the

United States; that the description, drawing and facsimiles presented truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or its predecessors from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such use has been exclusive.

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.

[L. s.]

CHAS. S. CLEAVES,
Notary Public.

TRADE-MARK.

No. 59,193.

REGISTERED JAN. 1, 1907.

G. & C. MERRIAM CO.

DICTIONARIES.

APPLICATION FILED MAY 17, 1906.

(Complainant's Exhibit,
Registered Trade-Mark No.6.)

**WEBSTER'S
HIGH SCHOOL**

Proprietor
G. & C. Merriam Co.
by John H. Merriam
attys

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES.

No. 59,193.

Statement and Declaration.

Registered Jan. 1, 1907.

Application filed May 17, 1906. Serial No. 19,617.

STATEMENT.

To all whom it may concern:

Be it known that G. & C. MERRIAM CO., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing.

The trade-mark has been continuously used in the business of said corporation since 1892 and in the business of its predecessor since 1867.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of

goods comprised in said class upon which said mark is used is dictionaries.

The trade-mark is usually displayed upon the goods by imprinting or impressing the same directly upon the books and upon the packages in which the books are wrapped.

[L. s.] G. & C. MERRIAM CO.,

By H. C. ROWLEY,
Treasurer.

Approved:

O. M. BAKER,
President.

Witnesses:

BERTON E. HALE,
ALBERT BOEDEKER.

DECLARATION.

State of Massachusetts, county of Hampden,
ss:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use said trade-mark either in the identical form or in any such near resemblance thereto which might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several

States of the United States; that the description, drawing and facsimiles presented truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or its predecessors from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such use has been exclusive.

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.

[L. s.] CHAS. S. CLEAVES,
Notary Public.

TRADE-MARK.

No. 59,191.

REGISTERED JAN. 1, 1907.

G. & C. MERRIAM CO.

DICTIONARIES AND REFERENCE MANUALS.

APPLICATION FILED MAY 17, 1906.

(Complainant's Exhibit,
Registered Trade-Mark No. 7.)

WEBSTER'S
CONDENSED

Proprietor

G. & C. Merriam Co.

by Hall & Abgleman

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES AND REFERENCE-MANUALS.

No. 59,191.

Statement and Declaration.

Registered Jan. 1, 1907.

Application filed May 17, 1906. Serial No. 19,615.

STATEMENT.

To all whom it may concern:

Be it known that G. & C. MERRIAM CO., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at No. 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing.

The trade-mark has been continuously used in the business of said corporation since 1892.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of goods comprised in said class upon which

said mark is used is dictionaries and reference-manuals or combined dictionary and reference-manual.

The trade-mark is usually displayed upon the goods by imprinting or impressing the same directly upon the books and upon the packages in which the books are wrapped.

[L. s.] G. & C. MERRIAM CO.,

By H. C. ROWLEY,
Treasurer.

Approved:

O. M. BAKER,
President.

Witnesses:

BERTON E. HALE,
RICHARD S. BETTES.

DECLARATION.

State of Massachusetts, county of Hampden, ss:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use said trade-mark either in the identical form or in any such near resemblance thereto which might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several States

of the United States; that the description, drawing and facsimiles truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or its predecessors, from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such has been exclusive.

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.

[L. s.] CHAS. S. CLEAVES,
Notary Public.

No. 59,473.

TRADE-MARK.

REGISTERED JAN. 8, 1907.

G. & C. MERRIAM CO.
DICTIONARIES.

APPLICATION FILED MAY 11, 1908.

(Complainant's Exhibit,
Registered Trade-Mark No. 8.)

WEBSTER'S
NATIONAL PICTORIAL

Proprietor
G. & C. Merriam Co.
by Hall & Heylman
attys

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES.

No. 59,473.

Statement and Declaration.

Registered Jan. 8, 1907.

Application filed May 11, 1906. Serial No. 19,431.

STATEMENT.

To all whom it may concern:

Be it known that G. & C. MERRIAM CO., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at No. 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing.

The trade-mark has been continuously used in the business of said corporation since 1892 and in the business of its predecessor since 1867.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of

goods comprised in said class upon which said mark is used is dictionaries.

The trade-mark is usually displayed upon the goods by imprinting or impressing the same directly upon the books and upon the packages in which the books are wrapped.

[L. s.] G. & C. MERRIAM CO.,
By H. C. ROWLEY,
Treasurer.

Approved: O. M. BAKER,
President.

Witnesses:
BERTON E. HALE,
ALBERT BOEDEKER.

DECLARATION.

State of Massachusetts, county of Hampden,

ss:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use said trade-mark either in the identical form or in any such near resemblance thereto which might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several States of the

United States; that the description, drawing and facsimiles presented truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or its predecessors from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such use has been exclusive.

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.

[L. s.] CHAS. S. CLEAVES,
Notary Public.

TRADE-MARK.

No. 59,130. .

REGISTERED JAN. 1, 1907.

G. & C. MERRIAM CO.

DICTIONARIES.

APPLICATION FILED MAY 17, 1906.

(Complainant's Exhibit,
Registered Trade-Mark No. 9.)

WEBSTER'S
PRIMARY

Proprietor
G. & C. Merriam Co.
by Hall & Alderman

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES.

No. 59,130.

Statement and Declaration.

Registered Jan. 1, 1907.

Application filed May 17, 1906. Serial No. 19,618.

STATEMENT.

To all whom it may concern:

Be it known that G. & C. MERRIAM Co., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at No. 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing.

The trade-mark has been continuously used in the business of said corporation since 1892 and in the business of its predecessor since 1867.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of

goods comprised in said class upon which said mark is used is dictionaries.

The trade-mark is usually displayed upon the goods by imprinting or impressing the same directly upon the books and upon the packages in which the books are wrapped.

[L. s.] G. & C. MERRIAM CO.,
By H. C. ROWLEY,
Treasurer.

Approved:

O. M. BAKER,
President.

Witnesses:

BERTON E. HALE,
ALBERT BOEDEKER.

DECLARATION.

State of Massachusetts, county of Hampden,
ss:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief has the right to use said trade-mark either in the identical form or in any such near resemblance thereto which might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several States

of the United States; that the description, drawing and facsimiles truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or its predecessors from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such use has been exclusive.

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.

[L. s.] CHAS. S. CLEAVES,
Notary Public.

TRADE-MARK.

No. 59,187.

REGISTERED JAN. 1, 1907.

G. & C. MERRIAM CO.

DICTIONARIES AND REFERENCE MANUALS.

APPLICATION FILED MAY 11, 1906.

(Complainant's Exhibit,
Registered Trade-Mark No.10 .)

WEBSTERS
COUNTINGHOUSE
AND
FAMILY

Proprietor
G. & C. Merriam Co.
by Hae & Heylman
attys

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES AND REFERENCE-MANUALS.

No. 59,187.

Statement and Declaration.

Registered Jan. 1, 1906.

Application filed May 11, 1906. Serial No. 19,429.

STATEMENT.

To all whom it may concern:

Be it known that G. & C. MERRIAM CO., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing.

The trade-mark has been continuously used in the business of said corporation since 1892 and in the business of its predecessor since 1867.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of goods comprised in said class upon which

said mark is used is dictionaries and reference-manuals or combined dictionary and reference-manual.

The trade-mark is usually displayed upon the goods by imprinting or impressing the same directly upon the books and upon the packages in which the books are wrapped.

[L. S.]

G. & C. MERRIAM CO.

By H. C. ROWLEY,

Treasurer.

Approved:

O. M. BAKER,

President.

Witnesses:

BERTON E. HALE,

ALBERT BOEDEKER.

DECLARATION.

State of Massachusetts, county of Hampden,
ss:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use said trade-mark either in the identical form or in any such near resemblance thereto which might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several

States of the United States; that the description, drawing and facsimiles presented truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or its predecessors from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such use has been exclusive.

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.

[L. S.]

CHAS. S. CLÉAVES,

Notary Public.

Replication.

393

DISTRICT COURT OF THE UNITED
STATES,

SOUTHERN DISTRICT OF NEW YORK.

G. & C. MERRIAM COMPANY,
Complainant,

VS.

SYNDICATE PUBLISHING COMPANY,
Defendant.Replication.
Eq. 8-162.

394

The replication of the G. & C. Merriam Company, Complainant, to the answer of Syndicate Publishing Company, defendant:

This repliant saving and reserving unto itself now and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer, for replication thereunto says that it doth and will aver, maintain and prove its said Bill of Complaint to be true, certain and sufficient in law to be answered unto, and that the said answer of the said defendant is uncertain, evasive, untrue and insufficient to be replied unto by this repliant; without this that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true. All which matters and things this repliant is and will be ready to aver maintain and prove as this Honorable Court shall direct, and humbly prays and in and by its Bill it has already prayed.

Feb. 5, 1912.

JUDSON & HALE,

Solicitors for Complainant.

Filed, Feb. 5, 1912.

397

DISTRICT COURT OF THE UNITED
STATES,

SOUTHERN DISTRICT OF NEW YORK.

G. & C. MERRIAM COMPANY,
Complainant,

VS.

398

CUPPLES & LEON COMPANY,
Defendant

Equity 8-161.

G. & C. MERRIAM COMPANY,
Complainant,

VS.

399

SYNDICATE PUBLISHING COMPANY,
Defendant.

Equity 8-162.

SPRINGFIELD, MASSACHUSETTS.

February, 23, 1912.

10 o'clock A. M.

APPEARANCES:

- 400 The Special Examiner, JOHN F. JENNINGS.
WILLIAM B. HALE, Esq.,
For Complainant.
GEORGE F. BEAN, Esq.,
For both Defendants.

Depositions taken on behalf of the complainant for final hearing pursuant to notice annexed, before John F. Jennings, Esq., a Special Examiner of this Court, pursuant to the 67th rule

in equity, as amended, at the office of Messrs. G. & C. Merriam Company in the city of Springfield, Massachusetts, at ten o'clock A. M.

IT IS HEREBY STIPULATED between the counsel for the respective parties that the depositions of the witnesses to be called shall be taken down stenographically by a skilful stenographer appointed by the Special Examiner, and subsequently transcribed and reduced to typewriting. 402

It is further stipulated that the signatures of each and all of the witnesses thus examined shall be and hereby are waived.

CLINTON W. COWLES, a witness called on behalf of the complainant, having been first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Will you please state your full name, age, residence and occupation? A. Clinton W. Cowles; age, forty-five; residence, 137 Harvard Street, Springfield, Mass.; occupation, general insurance. 403

Q. 2. I believe you are the local representative in Springfield for the National Surety Company of New York and the Connecticut General Life Insurance Company of Hartford, Conn., is that correct? A. Yes, sir.

Q. 3. Are you at all acquainted with Webster's Dictionary? A. Yes, sir. 404

Q. 4. How long have you known of it? A. I have known of it ever since I have known anything in the way of book production.

Q. 5. What is the standing and reputation of Webster's Dictionary as you have known it? A. It is the leading dictionary from my point of view.

Q. 6. And you have so regarded it during the

entire period of your acquaintance with it? A. I have.

Q. 7. Do you know who is and who has been during this period the publisher of the Webster's Dictionary to which you refer? A. Yes; G. & C. Merriam Company of Springfield, Mass.

406 Q. 8. During this period did you know whether or not there were dictionaries published by any other persons under the name of "Webster's Dictionary"? A. I was not aware of any such publication.

Q. 9. Have you recently had occasion to purchase a small Webster's dictionary? A. Yes.

Q. 10. State when and under what circumstances. A. In the late summer or early fall my stenographer called my attention to the need of a new dictionary, and recalling the fact that I had seen Webster's Dictionary advertised at a reduced rate through one of the local newspapers I suggested to the stenographer if she would save the coupons that I would get one of the books advertised, one of the dictionaries advertised, which I did, under the supposition that it was a book published by the G. & C. Merriam of Springfield, Mass. I was aware that the price must be low, but supposed the newspaper people had secured a reduction owing to the purchase of a large quantity.

407 Q. 11. Did you examine this book at or before you bought it? A. I did not. I just took it as it was handed to me over the counter and turned it over to my stenographer under the assumption that it was a bona fide Webster's Dictionary.

408 Q. 12. Upon what if anything did you rely as an assurance that the book was a good and reliable dictionary? A. The word "Webster" being connected with the title led me to suppose it was the real thing.

Q. 13. What effect upon your mind in making

this purchase did the great reputation of the Webster dictionaries which you had previously known, have? A. I bought it sight unseen.

Q. 14. Did you use the book at all after you bought it? A. Not personally; it was used at the office.

Q. 15. Did it prove satisfactory in use? A. Not altogether. I recall hearing my stenographer criticize the publication owing to the lack of some words being in it that would naturally be expected to be there. 410

Q. 16. Do you remember any specific words that were omitted and which you discovered had been omitted? A. I remember a number of instances when comment was made on not being able to find a word: the word "maximum" is the only one I recall.

Q. 17. The word "maximum" is omitted from the book which you bought from the Springfield Union? A. Yes, sir. 411

Q. 18. What newspaper handled and sold this book which you bought in Springfield? A. The Springfield Union.

Q. 19. I show you a book entitled "Webster's New Standard Dictionary," bearing a single copyright notice giving the year 1911, and ask you if that is the identical volume which you purchased under the circumstances stated? A. It is.

MR. HALE: The book identified by the witness is offered in evidence and marked "Complainant's Exhibit—Cowles Dictionary." 412

Q. 20. Except as you have been told do you now know of your own knowledge whether or not this book which you bought from the Springfield Union is or is not a genuine Webster's Dictionary? A. I have no knowledge other than what I have been told.

Q. 21. I show you a book entitled the "Crown Dictionary," which has been marked for identification "Complainant's Exhibit A, referred to by H. W. Baker," and ask you if you ever heard of that book before mentioned in this suit? A. I couldn't say I had. It seems as if the Crown Dictionary was a well known name.

414 Q. 22. When you bought this book from the Springfield Union did you intend to buy this book entitled the "Crown Dictionary" which I show you? A. Most certainly not.

Q. 23. You are the Mr. Cowles who made an affidavit in this case on behalf of the complainant which was verified December 26, 1911? A. Yes, sir.

Q. 24. Since making that affidavit have you been interviewed by anyone on behalf of the defendant with respect thereto? A. No, I have not.

415 CROSS-EXAMINATION by Mr. Bean:

x Q. 25. You say you don't know anything about whether the book you purchased was genuine or not except as you have been told? A. No.

x Q. 26. What should you say would be a genuine Webster's Dictionary? A. A dictionary published by G. & C. Merriam Company of Springfield, Mass.

416 x Q. 27. Regardless of whether it was based upon any work of Noah Webster or not? A. Yes.

x Q. 28. That is to say, you think that the source of publication is the test as to the genuineness of the dictionary rather than its authorship? A. I have no knowledge of the older editions but since I recall knowing anything about the Webster dictionary it has been published here in Massachusetts by G. & C. Merriam Company or its early company, the Merriam Company.

x Q. 29. Would you say that a dictionary published by some one else than the Merriam Com-

pany and based upon the work of Noah Webster, was not genuine?

Mr. HALE: Objected to as calling for the conclusion of the witness.

A. I would say it would be rank injustice to the Merriam Company.

MR. BEAN: The answer is objected to because it is not responsive. 418

x Q. 30. I repeat the question: whether a dictionary based upon Noah Webster and published by some other house than the Merriam Company's would in your opinion be or not be genuine? A. I would say would not be genuine.

MR. HALE: The same objection.

x Q. 31. You think it would not be genuine if it were in fact based on the work of Noah Webster? 419

MR. HALE: Objected to as mere repetition.

A. A book published at the present time I would not consider genuine.

x Q. 32. You have lived in Springfield all your life or since you were a boy? A. About eight years.

x Q. 33. As a matter of fact you have not known anything about whether dictionaries with "Webster" in their titles were published by anybody else than the Merriam Company or not until your attention has been called to it in this case, have you? A. I have had no such knowledge. 420

x Q. 34. You have had no knowledge of previous litigation regarding the use of the name "Webster" in the titles of dictionaries, have you? A. I cannot say positively. It occurs to me I have heard there has been some litigation at some time during the last ten years.

421

Charles D. Bond—Direct.

x Q. 35. You don't know the results of that litigation? A. I do not.

x Q. 36. You know nothing about whether the Merriam Company is and and was at the time you purchased this dictionary restrained by an order of a circuit court of the United States from claiming the exclusive right to the name "Webster"?

422

MR. HALE: Objected to as incompetent, irrelevant and immaterial and as not correctly stating the decree of the court referred to.

A. I have no knowledge.

x Q. 37. You say you didn't see this dictionary which you bought before you bought it? A. I did not, nor any other like it.

DEPOSITION CLOSED.

423 (Signature waived.)

CHARLES D. BOND, a witness called on behalf of the complainant, having been first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

424 Q. 1. Please state your full name, age, residence and occupation? A. Charles D. Bond; age, fifty-one; residence, 26 Mulberry Street, Springfield, Mass.; occupation, a magazine specialist, I am in the general subscription business.

Q. 2. Have you been more or less familiar with the Webster dictionaries in times past? A. I have.

Q. 3. How long have you known of Webster dictionaries? A. Ever since I was a boy; I don't know just how many years.

Q. 4. Do you know who is the publisher of the

Webster dictionaries to which you refer? A. G. & C. Merriam Company.

Q. 5. And they have always been the publishers of Webster's Dictionary since you have known it? A. They have.

Q. 6. How long have you known of the Merriams as the publishers of Webster's Dictionary? A. Forty years.

Q. 7. What has been your understanding of the reputation and authority of Webster's Dictionary as a work of reference during all this period? A. I think it has the highest standing; I always regarded it as such. 426

Q. 8. On or about October 11, 1909, did you consider a proposition to supply Success Magazine to subscribers in connection with a premium dictionary? A. I did.

Q. 9. What was the name of the dictionary offered as a premium with Success Magazine? A. Webster's Inter-Collegiate Dictionary. 427

Q. 10. Who did you think was the publisher of the Webster's Inter-Collegiate Dictionary thus offered as a premium? A. G. & C. Merriam Company.

Q. 11. What made you believe that? A. I had not known of any other dictionary publisher of that name, that is, any other publisher publishing a dictionary by that title.

Q. 12. By what name? A. Webster's Inter-Collegiate Dictionary. 428

Q. 13. What part of the title made you think the Merriams were the publishers of that book? A. "Webster's."

Q. 14. Having undertaken to secure subscriptions for Success Magazine on this premium basis, did you secure any and if so what did you do? A. I secured one.

Q. 15. Do you remember the name of the sub-

scriber? A. Dr. Boynton, of Springfield, with offices in the Whitney building.

Q. 16. Did you offer this book, Webster's Inter-Collegiate Dictionary, to Dr. Boynton as being a genuine Webster's Dictionary published by the G. & C. Merriam Company, or how did you represent it to him? A. I just offered it as Webster's Dictionary in connection with the premium of Success Magazine.

430

Q. 17. I show you a book entitled the "Crown Dictionary," marked for identification in this case as "Complainant's Exhibit A, referred to by H. W. Baker," and ask you if you ever saw or heard of that book before? A. Not before.

CROSS-EXAMINATION by Mr. Bean:

x Q. 18. What is your business? A. The subscription business, magazine specialist.

431 x Q. 19. Have you been at that business a good many years? A. A number of years, not many, but several.

x Q. 20. About how long have you lived in Springfield? A. About forty-five years.

x Q. 21. You have an office in connection with your subscription business? A. Only at the house.

x Q. 22. Have you ever been employed in any connection by the G. & C. Merriam Company? A. Never.

432 x Q. 23. You say you received a proposition to supply Webster's Inter-Collegiate Dictionary as a premium to subscribers to Success Magazine. Did you receive that proposition in the form of a letter from the Success Magazine people? A. They wrote me and they sent me circulars.

x Q. 24. Before you began to solicit subscribers did you see the dictionary which was offered by them as a premium? A. No, I had no copy of it.

x Q. 25. You say you got one subscription? A. Yes, sir.

x Q. 26. You have never seen that dictionary, that is, Webster's Inter-Collegiate? A. Unless I have seen them in New York, I really don't remember.

x Q. 27. Do you know who publishes that dictionary, the Inter-Collegiate? A. Yes.

x Q. 28. Who? A. I suppose the Syndicate Publishing Company.

x Q. 29. What makes you suppose so? A. I understood so here. 434

x Q. 30. Would it surprise you to know that the Webster Inter-Collegiate Dictionary is published by the A. J. Saalfeld Company of Akron, Ohio? A. Yes, that would surprise me.

x Q. 31. Do you know what the size of Webster's Inter-Collegiate Dictionary is, whether abridged or unabridged? A. I don't know.

x Q. 32. Were you of the impression that Webster's Inter-Collegiate Dictionary was a dictionary which was in litigation in this suit in which you are now testifying? A. I did not; I did not know anything about it. 435.

x Q. 33. Do you know as a matter of fact what dictionary is the subject of litigation in this suit in which you are testifying?

MR. HALE: Objected to as immaterial and as obviously calling for hearsay.

A. I supposed it was Webster's Inter-Collegiate Dictionary. 436

x Q. 34. I understood you to say in answer to Mr. Hale's question on direct examination that what led you to think it was a dictionary published by the Merriam Company was the name "Webster's," is that right? A. Yes, sir.

x Q. 35. Up to that time when you sold subscriptions to Success Magazine you didn't know anything about whether any other house than the

Merriam Company published Webster's Dictionaries or not? A. No.

x Q. 36. You had lived in Springfield about all your life and during that time had known that the Merriam Company had published Webster dictionaries and so you supposed they published all Webster's dictionaries that were published, is that right? A. That is right.

438 x Q. 37. So far as you are concerned you don't know that you ever saw a copy of Webster's New Illustrated Dictionary, or Webster's New Standard Dictionary, or Webster's New Century Dictionary, which are the subject of litigation in these suits? A. No.

x Q. 38. Have you sold dictionaries in your business as a subscription agent? A. Yes.

x Q. 39. As premiums with magazines or independently? A. As premiums with magazines.

439 x Q. 40. Have all the dictionaries which you have so sold as premiums been dictionaries published by the Merriam Company, except this one? A. No.

x Q. 41. What other? A. Funk & Wagnalls.

x Q. 42. The Standard? A. Yes, sir.

x Q. 43. But to a large extent the dictionaries which you sold as premiums have been dictionaries published by the Merriam Company? A. No.

440 x Q. 44. Have you to some extent sold their dictionaries? A. One.

x Q. 45. One copy? A. I think that is all.

x Q. 46. Then you have not done a great deal in the dictionary business in connection with your subscription business? A. Very little.

x Q. 47. All this occurrence to which you testified amounts to is you learned by the circulars, etc., which you received that Webster's Inter-Collegiate Dictionary was offered as a premium and you supposed it was published by the Mer-

Joseph C. Cooper—Direct.

441

riam Company and you asked no questions of anybody one way or the other and you secured one subscription to Success Magazine carrying as a premium that dictionary? A. I did.

x Q. 48. You don't know whether these other dictionaries which I have mentioned as in litigation in these suits, are abridged or unabridged? A. I do not.

442

RE-DIRECT EXAMINATION by Mr. Hale:

Re-D. Q. 49. You said you had sold one copy of a Merriam dictionary as a premium, are you referring to the book sold to Dr. Boynton? A. Yes.

Re-D. Q. 50. You have since ascertained that that was not a Merriam book? A. Yes.

Re-D. Q. 51. It was the book called Webster's Inter-Collegiate Dictionary? A. Yes, sir.

RE-CROSS-EXAMINATION by Mr. Bean:

443

Re x Q. 52. Then you never have sold a Merriam Webster's Dictionary? A. No.

(Signature Waived.)

DEPOSITION CLOSED.

JOSEPH C. COOPER, a witness called on behalf of the complainant, having been first duly cautioned and sworn, testified as follows: 444

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation? A. Joseph C. Cooper; 54 Buckingham Street, Springfield; bank clerk; twenty-four years old.

Q. 2. Have you been more or less acquainted with Webster's dictionaries in times past? A. I

have always used it in school here, they have always used it here; and of course we have had it in the house all the time.

Q. 3. For about how many years have you been so acquainted with Webster's Dictionary? A. You might say ever since I started school.

Q. 4. What has been your understanding of the reputation and authority of Webster's dictionaries as reference books during this period? A. I have thought it to be the standard or the schools here wouldn't have taken it up and used it so extensively as they have, and it is pretty well known all over; I don't know of any other really good one.

Q. 5. Webster's Dictionary is used in the schools of Springfield? A. Yes, it was; I suppose it is now.

Q. 6. Were you educated in the Springfield public schools? A. Yes, sir.

Q. 7. In or about the month of September, 1911, did you purchase a dictionary? A. I think it was about that time.

Q. 8. From whom did you purchase this dictionary? A. I got it from a clerk in the Union office.

Q. 9. The Springfield Union is a newspaper of this city? A. Yes, sir.

Q. 10. Please state how you came to buy this book from the Springfield Union and give all the particulars as to what you thought you were getting and why you bought this book? A. A friend of mine told me the offer was in the paper and they had already gotten one; seeing the advertisement in the Springfield Union I took my friend's advice and got the coupons thereby giving me a chance to get the book. I understood that it was G. & C. Merriam's dictionary that they were offering and I thought it would be a good thing to have a handy size and all, so I got it.

Q. 11. The Springfield Union was advertising a Webster's Dictionary to be given for coupons and a cash payment, is that correct? A. Yes, sir.

Q. 12. What made you think that the book offered by the Springfield Union was one of the dictionaries published by the Merriams? A. I hadn't anything else to lead me to think otherwise, for the simple reason it said Webster's International Dictionary as I remember, and the Merriam being the one I knew of, and in fact I guess it is the only company, that gets out Webster's International, I took it for granted that it was the Merriams making the offer through the Springfield Union. 450

Q. 13. Are you certain that the book advertised in the Springfield Union was Webster's International Dictionary? A. I am not sure; that is, I didn't look at the advertisement very much. The coupons were cut out and given to me and I took them down and the party that told me of them said that it was. I didn't see the book at all before hand, and I couldn't say as to that. 451

Q. 14. I show you a book which has been offered in evidence and marked "Complainant's Exhibit—Cowles dictionary," which the witness Clinton W. Cowles purchased from the Springfield Union, and ask you if that is the same as the book you purchased? A. Yes, I guess that is the same book all the way through, I see some similar things in it. 452

Q. 15. The title of this book is Webster's New Standard Dictionary, was that the title of the book you purchased from the Springfield Union? A. Yes, sir.

Q. 16. I presume you knew that you were not obtaining the large unabridged Webster's Dictionary published by the Merriams? A. Yes, sir.

Q. 17. What connection did you think there was between this small or abridged dictionary and

the large unabridged Webster's dictionaries published by the Merriams? A. I thought probably it was some special thing that they had gotten out as sort of an advertisement,—not necessarily an advertisement because I don't think they need to advertise, but they are always working in some of these deals around,—not the Merriam Company exactly, but different companies. I didn't know

454 but this was something in that order.

Q. 18. Did the low price at which the book was offered by the Springfield Union attract your attention at all? A. Yes, sir.

Q. 19. Did you wonder how the book could be offered at the price stated?

MR. BEAN: I object to the question as immaterial.

A. I thought the Union had some deal on with
455 the Merriam Company whereby they were getting along all right and the company were too and at the same time it was an advertisement for both.

Q. 20. How long have you known the Merriams as being the publishers of the Webster dictionaries to which you have referred? A. As long as I can remember, within my recollection of study.

Q. 21. Before the matter was mentioned in this suit did you know that there were any concerns other than the Merriams who published dictionaries under the name of Webster's Dictionary? A.
459 No, sir.

Q. 22. Did you examine this book which you bought from the Springfield Union at or before the time you purchased it? A. No, sir.—I will take that back. I didn't examine it closely, that is, I looked it over. I saw the copy this friend of mine had I just looked it over, looked it through, not very carefully, but enough to give me a little idea.

Q. 23. Are you an expert on dictionaries? A. Not exactly.

Q. 24. Upon what did you rely, if anything, as an assurance that this book which you bought was an accurate, reliable dictionary worth buying?

A. Upon the name "Webster," that first came in my head, probably from Webster's International Dictionary and associating that with the Merriams, I thought if it was not the large dictionary it would be up to date to a certain extent, as far as they could make it so. 458

Q. 25. Do you know whether Webster's International Dictionary to which you have referred is a large unabridged dictionary or a small or abridged dictionary? A. I always knew of the large. I never knew—oh, yes, I did too, because they had the small one in the schools, so I judge they published small ones as well as they did the large unabridged. The ones in school were about that size, not quite as large possibly. 459

Q. 26. Did you think you were obtaining the Webster's dictionaries such as are used in the schools and to which you have referred? A. No, but as I say I saw the book; it is not the same, but very nearly the same; it is the same general style.

CROSS EXAMINATION by Mr. Bean:

x Q. 27. Mr. Hale asked if you thought you were getting an accurate, reliable dictionary worth buying when you bought this book and you answered that you did. Do you now think that you are not getting an accurate, reliable dictionary worth buying? A. Not being a good judge, not an expert on dictionaries I cannot say as to that, but I think perhaps it is worth the money, ninety-eight cents, that I paid for it. 460

x Q. 28. Did you examine the title page of the dictionary you bought? A. No, sir.

x Q. 29. Did you look to see who published it?
A No, I didn't look at that.

x Q. 30. Do you know now who published it?
A. I do not.

x Q. 31. After you got the dictionary did you examine it at all? A. No, not closely. I looked at it when the matter was brought up.

x Q. 32. Brought up by whom? A. When Mr.
462 Baker spoke to me on the matter.

x Q. 33. Who is Mr. Baker? A. The man connected with the G & C. Merriam Company.

x Q. 34. What did he say to you? A. He asked me if I was satisfied with the book and if I thought it was the Webster's International Dictionary when I bought it.

x Q. 35. What did you say to him? A. I said that I thought it was.

x Q. 36. What did you say to him as to being
463 satisfied? A. I said the same as I said here. I said in a way—probably as much as I would ever use it it would be all right.

x Q. 37. Did he tell you you had not got a genuine Webster's Dictionary? A. No, sir.

x Q. 38. What did he tell you? A. I don't know as he really did say what it was; I don't remember that he did.

x Q. 39. Didn't he tell you the Merriam Company were the only publishers of the genuine Webster's Dictionary? A. I don't think he did, no, sir.
464

x Q. 40. Did he tell you you had got a spurious or a defective or a non-genuine dictionary? A. I don't think he did either; I don't think he spoke about it at all.

x Q. 41. You don't know now you didn't get a genuine Webster's Dictionary? A. Yes, I do.

x Q. 42. How? A. I know; if I had this wouldn't have come up.

x Q. 43. What wouldn't have come up? A. My being here.

x Q. 44. Do you know when Noah Webster lived or died? A. No, sir.

x Q. 45. You don't think he is alive now, do you? A. I do not.

x Q. 46. Did you think he was the author of the dictionary you got? A. No, sir.

x Q. 47. You think he is the author of the dictionaries that the Merriam Company sell bearing the name Webster? A. Not exactly the author; they use his name; probably he was connected with it some time or other. 466

x Q. 48. Have you ever read upon the title page of the dictionary you purchased the statement that it is based upon the unabridged dictionary of the English language by Noah Webster? A. No, sir.

x Q. 49. You find that language, do you not, upon the Cowles book (showing) which you have identified and like the one you purchased? A. Yes, sir.

x Q. 50. If a dictionary is based upon the unabridged dictionary of Noah Webster, do you think it is necessary to be published by the Merriam Company to be a genuine Webster dictionary. 467

MR. HALE: Objected to as calling for the opinion of the witness.

A. Not knowing of any other company publishing under the name of Webster I thought that it was necessary.

x Q. 51. Up to the time you purchased this dictionary you thought all dictionaries bearing the name "Webster" in their title were published by the Merriam Company, did you not? A. Yes, sir. 468

x Q. 52. Supposing some other publishing house or houses published dictionaries with the name "Webster" in their titles and based upon the unabridged dictionary of Noah Webster, what would you say as to such a dictionary being as genuine as other dictionaries published by the Merriam

469

Joseph C. Cooper.—Re-direct.

Company and also based upon the work of Noah Webster?

MR. HALE: Objected to as incompetent, irrelevant and immaterial and as calling for the opinion of the witness as to a matter upon which he is not qualified as an expert and also upon a matter of law which is for the court.

470

A. I don't see—in a way, possibly some other company might have as genuine a book if they are up to date.

x Q. 53. You have always lived in Springfield, have you not, and since you were a boy in the schools here have known that the Merriam Company published Webster dictionaries and so supposed that they published all Webster dictionaries? A. Yes, sir.

471

x Q. 54. If you had examined the title page of the dictionary which you purchased you would have known, would you not, that it was not published by the Merriam Company?

MR. HALE: Objected to as hypothetical in form and calling for a guess.

A. Yes, sir.

x Q. 55. Would you, if you had so examined the title page, been deceived? A. No, sir, I don't think I would.

472

RE-DIRECT EXAMINATION by Mr. Hale:

Re-D. Q. 56. You have spoken of Webster's International Dictionary saying that that was the name advertised and that was the book which you expected to get. Are you not confused somewhat, and to aid you I show you a copy of Webster's International Dictionary, which is a very large unabridged dictionary? A. Yes; I didn't mean

the International; I meant Webster's Dictionary published by G. & C. Merriam Company.

Re-D. Q. 57. And when you said that Mr. Baker asked you whether you thought you had obtained Webster's International Dictionary, you were mistaken in saying that he mentioned Webster's International Dictionary, were you not? A. Yes, sir.

Re-D. Q. 58. What according to your best recollection now, as nearly as you can give it, was the question Mr. Baker asked you? A. I should say, "Did you think that the book that you got from the Springfield Union was a dictionary published by the G. & C. Merriam Company as their standard "Webster's Dictionary?" 474

Re-D. Q. 59. You are the same Mr. Cooper who has heretofore made an affidavit for the complainant in this case? A. Yes, sir.

Re-D. Q. 60. Since that time have you been approached by any one purporting to represent the defendant or the Springfield Union? A. There was a man in representing the Springfield Union, yes, sir. 475

Re-D. Q. 61. When? A. I should say two or three weeks ago.

Re-D. Q. 62. How often did he call? A. Once.

Re-D. Q. 63. What was his name? A. I don't know.

Re-D. Q. 64. Did he give his name? A. Yes, sir, he did. 476

Re-D. Q. 65. What did he say to you? A. He asked me if I was satisfied in the purchasing of the dictionary, that is, that I didn't begrudge the ninety-eight cents, if I thought it was worth the money.

Re-D. Q. 66. What else did he say to you? A. That is about all he asked me. He didn't ask me but one or two questions. That was the main

idea: he wanted to know if I was satisfied, said if I was not they were willing to refund the money.

Re-D. Q. 67. Did he ask you to make an affidavit for the defendant? A. No, sir.

Re-D. Q. 68. Did he try to convince you that you had obtained a genuine Webster's Dictionary?

A. No, sir.

(Signature waived.)

DEPOSITION CLOSED.

ROBERT C. MUNROE, a witness called on behalf of the complainant, having been first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

479 Q. 1. What is your full name, age, residence and occupation? A. Robert C. Munroe; age thirty-two; residence, Longmeadow, Massachusetts; occupation, advertising.

Q. 2. What is your position with the Merriam Company? A. Clerk.

Q. 3. Have you charge of any of the advertising for the G. & C. Merriam Company, the complainant in this case? A. Yes, sir.

Q. 4. What branch of it? A. I order the advertising.

480 Q. 5. Does the complainant advertise in the newspapers of this country? A. Yes.

Q. 6. Do you furnish such newspapers with electrotypes cuts of your side of the advertisements? A. Yes, sir.

Q. 7. After the advertisement has run its prescribed course, are these cuts sometimes returned to the complainant? A. Yes, sir.

Q. 8. I show you an electrotypes cut of a dictionary and ask you if you recognize it? A. Yes, sir.

Q. 9. When and under what circumstances did you first receive that electrotype cut? A. About two months ago; it was one of three cuts sent to us, two of which were our cuts.

Q. 10. I show you two electrotype cuts advertising—one, the old and one Webster's New International Dictionary, and ask you if they are the cuts to which you refer? A. Yes, sir.

Q. 11. From whom were these three cuts returned to you? A. Better Fruit Publishing Co., Hood River, Oregon. 492

Q. 12. Did the complainant advertise in the publication of that concern? A. Yes.

Q. 13. And furnished it with the two cuts of complainant's dictionary which you have identified? A. Yes.

Q. 14. Were all these three cuts returned in one package? A. Yes.

Q. 15. I show you the first cut identified by you and ask you to state what it is? A. It is a cut of Webster's New Illustrated Dictionary. 493

Q. 16. Is that one of complainant's publications? A. No.

Q. 17. Did you supply the Better Fruit Publishing Co. with that cut? A. No.

Q. 18. How, if you know, did it come to be sent to you? A. On the supposition that it was one of our cuts, bearing the name of Webster.

MR. BEAN: I object. It is apparent the witness cannot tell what the supposition of the party was who sent it to the Merriam Company. 494

MR. HALE: The three cuts identified by the witness are offered in evidence and marked respectively: "Complainant's Exhibit—Cut of defendant's dictionary sent to complainant"; "Complainant's Exhibit—Cut No. 1, returned to complainant"; and "Complainant's Exhibit—Cut No. 2, returned to complainant."

485

Harris W. Baker—Direct.

CROSS-EXAMINATION by Mr. Bean:

x Q. 19. All you know about the return of these cuts is that they came to you in one package and that two of them are cuts of dictionaries which the Merriam Company publishes and the other one is a cut bearing the name of a dictionary which the Merriam Company does not publish, is that right? A. Yes.

486

x Q. 20. This is the only instance in your recollection where a cut has come back to you which was not a cut advertising one of your dictionaries, is it, during your connection with the advertising department of the Merriam Company? A. Yes, sir.

DEPOSITION CLOSED.

(Signature waived.)

487

HARRIS W. BAKER, a witness called on behalf of the complainant having been first duly cautioned and sworn, testified as follows:

IT IS HEREBY STIPULATED between the attorneys for the respective parties that the affidavit of Harris W. Baker verified in this cause on the first day of January, 1912, shall be inserted in the record at this point with the same force and effect as though the witness had been examined at large by way of question and answer on behalf of the

488

complainant, but subject to further examination and cross examination.

Affidavit of Harris W. Baker.

STATE OF MASSACHUSETTS, }
County of Hampden, } ss.:

HARRIS W. BAKER, being duly sworn, deposes and says:

I reside at 108 Harvard Street, Springfield, Mass., and am employed by the G. & C. Merriam

Company of that city. I have compared a copy of the Crown Dictionary of the English language, published by The Christian Herald, New York City, produced herewith marked "Exhibit A," and by my name, with a copy of Webster's New Standard Dictionary published by the Syndicate Publishing Company, produced herewith marked "Exhibit B" and by my name, and with Webster's New Century Dictionary, published by Cupples & Leon Company, produced herewith marked "Exhibit C" and by my name. The purpose of my comparison was to ascertain whether these books were printed from the same plates, and as a result of these comparisons I assert that they were printed from the same plates with but slight changes or additions. 490

In comparing Webster's New Standard Dictionary (Exhibit B), hereinafter called the New Standard, with the Crown Dictionary (Exhibit A), I began at the beginning of the letter "A" in both cases and compared the first ten pages. The first page in the Crown Dictionary is not numbered; but had it a number, it would be No. 9. The pages in the New Standard were not numbered at all, but for the sake of comparison I have numbered them beginning with No. 9 on the page where the main vocabulary of the dictionary begins. In addition to the first ten pages mentioned above, my comparison of these two books has covered the ten pages beginning with each of the following pages: 109, 209, 309, 409, 509, 609, 709, 809, making a total of ninety pages. The comparison of these ninety pages shows that they are exactly the same, with the exception of thirteen words having been omitted and thirteen other words substituted for them, the words substituted being largely of recent origin, such as cordite, esperanto, expansionist, hobble skirt, pneumatic tire, etc. I have also 491 492

found in the pages examined a number of broken type, these broken type appearing exactly the same in both books. In addition to this, there are other errors which appear in both books, such as on page 12, under the definition of abridge, the word "epitomize" appears without the first "i," making it "eptomize." On page 15 the word "county" is used for "country" in the definition of the word *accent*. I have further compared the letters at the top of each page, which indicate the scope of the page, and find that the scope of each page in the New Standard is the same as the scope of the corresponding page in the Crown Dictionary, with the exception of the fact that words have been added in the New Standard at the last page of each letter, which in some cases alter the letters which indicate the scope of the page. This led to an examination of the final pages of all letters, and I find that on these twenty-six last pages seventy-five words have been added and five new words have been substituted for other words.

Following the same percentage of changes in the 850 pages which constitute the vocabulary of this dictionary, exclusive of the twenty-six pages which comprise the end pages of each letter, the total changes in the new Standard from the Crown would be about 125 words, which with the seventy-five words added and five words changed on the pages at the end of each letter, would make a total of about 200 words changed in the entire book, about 125 of which are substitutions and not additions. This calculation is based on the entire book containing about 31,000 words, as ninety pages by actual count show 3,202 words. These are the ninety pages mentioned above as being under comparison.

In comparing the Crown Dictionary (Exhibit A) with Webster's New Century Dictionary (Ex-

hibit C) hereinafter called the New Century, I first ascertained that the broken type and other errors mentioned as appearing identical in the Crown and New Standard are also all reproduced in the New Century. I have also compared the twenty-six pages representing the ends of the twenty-six letters of the alphabet of the New Century and find that these have not been changed as in the New Standard but are identical with the Crown. I have compared ninety pages in the New Century with the Crown and find only four changes in these ninety pages, these changes being the substitution of new words for other words and the changing of one definition. The definition changed is under the word "Aeroplane" and the words substituted are "hook worm," "hydroplane" and "Triplane." The ninety pages compared in these two books were ten pages beginning with each of the following pages: 19, 119, 219, 319, 419, 519, 619, 719, 819. On page 117 I find that the word "biplane" has been added to the New Century, it not appearing in the Crown. This word has also been added on page 117 of the New Standard, but in this case it is out of its proper alphabetical order. In both the New Century and the new Standard a word has been left out to make room for the word "biplane."

498

499.

In the New Century Dictionary I examined the ninety pages stated above, the twenty-six pages comprising the end of the vocabulary under each letter and also page 117. This would make a total of 117 pages examined, in which five changes from the Crown Dictionary have been made. On this basis, the total number of changes made from the Crown Dictionary in the New Standard would be less than 40. None of the thirteen changes which appear in the New Standard appear in the

500.

501

Harris W. Baker—Direct.

New Century with the exception of the word "bi-plane."

HARRIS W. BAKER.

Subscribed to and sworn to before me{
this first day of January, 1912. }

CHARLES S. CLEAVES,

[SEAL]

Notary Public,

Springfield, Mass.

502

MR. BEAN: Counsel for defendant objects to said deposition as irrelevant and immaterial and as not relating to any issue in this cause.

DIRECT EXAMINATION by Mr. Hale:

503

Q. 1. In your examination and comparison of these dictionaries did you make any special search to discover errors or omissions or other matter which might be criticized in the defendant's book?
A. No.

Q. 2. Did you however discover any errors or omissions in the defendant book? A. I did.

Q. 3. Can you point out some of them? A. On page 12, under the definition of the word *abridge*, the word "eptomize" appears where "epitomize" is intended.

504

On page 15, under the definition of the word *accent* the word "county" is used where "country" should be used.

On page 211 in the definition of the word *constrictive* the word "which" is apparently omitted and the definition reads "that constricts," and it should be "that which constricts."

On page 213, the definition of *contribute* reads "to give to some common stock." I should say it has no meaning at all, this definition as it is given; it does not define the word to me.

On page 510, under the word *malaga*, the fact of this being a kind of grape is omitted.

On page 116, under the word *billiards* the side of the table is given as twelve feet by six, which is not the standard size in this country but which is that commonly used in England.

On page 313 the definition of *examine* is given "to test orally or by papers," here "to test orally or by written examination" should be used, to my mind. 506

Q. 4. Did you observe, and if so will you point out, some instance in which the words appearing in the Crown Dictionary have been cut out and other and more recent words have been substituted?

MR. BEAN: Objected to as asking for information which is irrelevant and immaterial and as not bearing on any issue in the case.

507

A. Esperanto is substituted for "esplanade."

Eureka is substituted for "European."

Past participle of "play" and its definition is omitted and *player piano* substituted.

Plum cot is substituted for "plume," verb transitive.

Pneumatic tire is substituted for "pneumatology."

Porgee is omitted and the definition of "porgy" is increased.

508

Town car is substituted for part of the definition of "town."

Serumtherapy is substituted for "serval" and part of the definition of "servant."

Hangar does not appear in the Crown Dictionary but the word "handspike" does. *Hangar* appears in the New Standard and "handspike" does not. *Hangar* appears in the New Century and "handspike" does not.

Q. 5. In each one of these instances the word omitted and the word substituted invariably appear upon the same page, do they not? A. Yes.

Q. 6. And the obvious purpose of the omission is to make room for the insertion of the more recent word? A. Yes, sir.

Q. 7. From your experience in the book business can you say those changes were made by way of
510 what are termed plate corrections? A. Yes.

Q. 8. Please examine these dictionaries and see if the word "hobbledehoy" has not been cut out of the Crown Dictionary to make place for the insertion "hobble skirt"? A. "Hobbledehoy" appears in the Crown Dictionary but is omitted in the New Standard, the word *hobble skirt* being substituted.

Q. 9. What is the case in the Webster's New Century? A. "Hobbledehoy" appears in the Century and "Hobble skirt" does not appear.

511 MR. BEAN: The answer is objected to as dealing with the respective literary merits of the several dictionaries, which merits are not issues in the case.

CROSS-EXAMINATION by Mr. Bean:

x Q. 10. Your company is the publisher of Webster's Condensed Dictionary, is it not? A. Yes, sir.

x Q. 11. Do the Reilly & Britton Company of
512 Chicago distribute said dictionaries with their imprint on the title page along with that of G. & C. Merriam Company, under some business arrangement with the Merriam Company? A. They do.

x Q. 12. Do you know whether or not that dictionary as thus distributed by the Reilly & Britton Company has upon the back of its cover in gilt letters "Twentieth Century Edition," with some other words?

MR. HALE: I object on the ground that the books will speak for themselves and that this is not the best evidence.

A. I am not particularly familiar with their various forms of dictionaries that they put out; I think I have seen that, but I am not sure; I wouldn't want to swear to any of it.

x Q. 13. Looking at a copy of Webster's Condensed Dictionary bearing your imprint and that of the Reilly & Britton Company upon its title page and the latest copyright notice by the Merriam Company, 1909, upon the back of its title page, will you tell me whether you find therein the word "hobble skirt" or the word "hangar"? 514

MR. HALE: Objected to as irrelevant and immaterial and not the best evidence and because the merits of complainant's book are not in issue. 515.

A. I do not.

x Q. 14. What do you call that part of the locomotive from which the smoke issues? A. The smoke stack.

x Q. 15. Will you examine the cut of a locomotive in said Webster's Condensed Dictionary and tell me what that part of a locomotive is therein called? A. Chimney.

x Q. 16. You made a somewhat extended comparison of the Crown Dictionary and the Webster's New Standard and the Webster's New Century dictionaries in preparation for the affidavit which you have made in this case and for the testimony which you are now giving? 516.

MR. HALE: Objected to as calling for a conclusion, the witness having already testified to the extent of his comparison and the purpose, which related solely to the

question of substantial identity between the books compared.

A. I examined about ten per cent. of each book.

x Q. 17. That was about ninety pages of each?

A. Yes, sir.

x Q. 18. And in those 90 pages you found 13 words omitted and 13 words substituted therefor in the New Standard Dictionary? A. Yes, sir.

x Q. 19. And you found four such changes as between the Crown and New Century? A. Yes, sir.

x Q. 20. Beside this you found the word "biplane" added in the New Century which did not appear in the Crown? A. Yes.

x Q. 21. Do you find the word "biplane" in Webster's Condensed Dictionary to which I have referred? A. No.

519 x Q. 22. I observe that in your affidavit which you executed on January 1, 1912, you state near the end that on the basis of your examination the total number of changes made from the Crown Dictionary to the New Standard would be less than forty. Did you mean the New Standard? A. The Standard should be Century, making it read "New Century."

520 x Q. 23. Your examination and comparison of 90 pages in each of the dictionaries to which you have referred was done with a view solely, was it not, to discovering how nearly alike Webster's New Standard Dictionary and Webster's New Century Dictionary were to the Crown Dictionary? A. The purpose of my examination was to see if they were printed from the same plates.

x Q. 24. Your conclusion is that they were with the occasional substitution of a word for another by the removal of that part of the plate necessary to make such a change? A. Yes.

x Q. 25. So that in your opinion each of those

two dictionaries is substantially the same dictionary as the Crown Dictionary. Can you tell me whether Webster's Condensed Dictionary to which I have referred and which bears upon the back of its title page the copyrights in 1884 by G. & C. Merriam & Company and in 1906 and 1909 of G. & C. Merriam Company, is substantially the same dictionary which was first published in 1884 by G. & C. Merriam & Company 522 under that title?

MR. HALE: Objected to upon the ground that the books must speak for themselves and that there is no evidence that this witness had anything to do with the preparation of said books or is at all familiar with their contents.

A. I cannot.

x Q. 26. How long have you been with the G. & 523 C. Merriam Company? A. About seven years.

x Q. 27. Do you know whether there has been any revision of Webster's Condensed Dictionary in that period? A. I do not.

x Q. 28. Said Webster's Condensed Dictionary on its title page has as editor, Dorsey Gardner, do you know him? A. I used to know him.

x Q. 29. Has he been connected with the Merriam Company since you have been with them? A. No.

x Q. 30. Is Dorsey Gardner now alive, or if not when did he die? A. He is dead but I don't know when he died. 524

x Q. 31. To the best of your knowledge how long is it since he died? A. I don't know, some time prior to my coming to the company seven years ago I should say.

(Signature waived.)

DEPOSITION CLOSED.

525

Kirk N. Washburn—Direct.

KIRK N. WASHBURN, a witness called on behalf of the complainant, having been first duly cautioned and sworn, testifies as follows:

IT IS HEREBY STIPULATED between the counsel for the respective parties herein that the affidavit of said Kirk N. Washburn made for use upon the motion for preliminary injunction herein and verified on, to wit the third day of January, 1912, shall be here inserted in the record as the examination in chief of said Kirk N. Washburn, with the same force and effect as if said Washburn had been duly examined at large by way of question and answer, but subject to further examination and cross-examination.

Affidavit of Kirk N. Washburn.

STATE OF MASSACHUSETTS, }
 527 County of Hampden, } ss.:

KIRK N. WASHBURN, being first duly sworn deposes and says:

I reside at Springfield, Massachusetts. I am the Secretary and one of the managers of G. & C. Merriam Company, the complainant herein. I am upwards of fifty-five years of age. I have been one of the Merriam Company's managers for something like fourteen or fifteen years, but I have been connected with the company in its general business for upwards of twenty-six years. My position is such as to make me familiar with substantially all the details of the Company's business and with everything that is going on in the company. I am specially familiar with the Sales Department and in time past have acted as travelling salesman for the Company. In that capacity I have visited all sections of the United States and most of Canada.

The Merriam Company advertises its dictionar-

ies by means of advertisements in newspapers and periodicals and by means of circulars sent to individuals and by travelling solicitors. It has done this for more than twenty-five years to my knowledge and was doing so at the time I became connected with the company. These advertisements are published substantially in all magazines and newspapers of the United States; specifically they are published in such magazines as the Century, Cosmopolitan, Harpers, Scribners and other like periodicals. For a great many years the Merriam Company has published and circulated annually at least 2,000,000 copies of circulars, leaflets, pamphlets, posters and other similar advertisements of its Webster's dictionaries. Since 1864 the complainant and its predecessors have issued and circulated not less than 86,000,000 of such circular advertisements. In all these advertisements of every class, the complainant's dictionaries have invariably been described as Webster's Dictionary, usually coupled with some other word to identify the specific book or edition, such as Webster's International Dictionary, Webster's Collegiate Dictionary, Webster's High School Dictionary, etc. When our dictionaries as a class are referred to, we designate them simply as Webster's dictionaries and that is the name by which they are known in the trade and among the public. Thus for many years our letter heads have contained the statement that G. & C. Merriam Company are the "Publishers of Webster's Dictionaries." Beginning with the 1864 edition of Webster's Unabridged Dictionary, the complainant and its predecessors has spent for advertising its said Webster's dictionaries, both bridged and unabridged, more than \$1,900,000 and this sum does not include the amount spent by the American Book Company or its predecessors Ivison, Blakeman Taylor & Co., who

530

531

532

have handled some of the abridged dictionaries under contract with us. I do not know the precise amount spent by them, but it is a very large amount. For the last twenty years at least, the G. & C. Merriam Company has spent in advertising its said Webster's dictionaries under that name, not less than \$50,000 annually.

- 534 In preparing new and revised editions of its Webster dictionaries and in keeping the same up to date, the complainant and its predecessors have spent not less than \$1,100,000. This does not include the editions of 1847 and 1859, but is limited to the amount spent for subsequent editions.

- 535 The complainant's travelling salesmen cover substantially the entire United States and much of Canada. Our Australian agency covers Australia and New Zealand, as well as Tasmania. We also have a representative in England. All of these agents canvass and sell our books under the name of Webster's dictionaries, or in the case of particular books, under the name Webster's Dictionary coupled with the word adopted to designate the particular book. This has been the course of business for more than twenty-five years to my knowledge, and probably much longer. The complainant has established agencies and regular customers, including retail dealers and book jobbers, in substantially all the larger cities of the United States, and at various places in Australia, at London, and at Paris. In substantially all these places there are people who always carry our dictionaries in stock, and sell them under the name of Webster's Dictionary. The territorial extent of the Merriam Company's sales of Webster's dictionaries includes the entire civilized world and some portions of it that are not considered civilized. The com-
- 536

plaintant regularly sends and sells its Webster dictionaries in every state of the Union.

Since the year 1864, and omitting all editions of prior dates, the complainant and its predecessors has sold more than 1,200,000 copies of its large or unabridged Webster's Dictionary. Including the smaller or abridged Webster's dictionaries during the same period the complainant has sold more than 12,000,000 copies of its Webster's dictionaries. Not less than 500,000 of the large unabridged Webster's Dictionary have been purchased for use in the schools of this country. We have no means of knowing definitely how many of the abridged dictionaries have gone into the schools, but a very large proportion of them have been sold to school boards for school use, being distributed to individual pupils. There is practically no school in the country which is without a dictionary bearing the imprint of G. & C. Merriam Company or its predecessors and issued since the Unabridged Dictionary of 1864. In some states, including Wisconsin, Minnesota and Kansas, our Webster's dictionaries have been officially adopted for use in the schools. In New York, our Webster dictionaries are officially approved for school use.

The long and continuous publication of Webster's dictionaries by our house, their widespread and enormous sales, the continuous and extensive advertising of them, and the care, skill and scholarship employed in their making and in keeping them revised up to date, have made our Webster's dictionaries almost universally known wherever the English language is spoken. Our dictionaries under the name of Webster's Dictionary, have become a recognized and standard work of reference and are referred to, cited and relied upon by Courts, lawyers, scholars and literary men. As illustrating the manner in which the

511

Kirk N. Washburn—Direct.

name Webster's Dictionary is used as designating our books, I refer to the exhibit filed herewith, marked "Complainant's Exhibit—Webster in the Courts." This exhibit is composed of facsimile letters received by the complainant from the judges of various Supreme Courts in the United States. These letters show over their own signatures, not only the authority and standing which our dictionary has, but also the manner in which the judges generally throughout the country use the name Webster's Dictionary as the designating title and description of our dictionary and no other.

That the name Webster is fully and universally identified with the dictionaries of the Merriam Company and that the use of said name "Webster's" as the designating name or description of other dictionaries not published by the complainant is deceptive and confusing and that the public suppose that such books are the genuine Webster's dictionaries of the complainant, is shown by the fact that without any solicitation upon the part of complainant, or previous communications relating thereto, the complainant has received numerous letters, inquiries and even orders for unauthorized and bogus Webster dictionaries issued by other persons within recent years. These letters show plainly the state of the public mind upon this subject. Some of them are as follows:

544

Letter No. 1.

"YARMOUTH, NOVA SCOTIA.

9th Apl. 1910.

Messrs. G. & C. MERRIAM Co.,
Springfield, Mass.

Gentlemen:

Can you tell me what edition of Webster's Dic-

Kirk N. Washburn—Direct.

545

tionary Messrs. Moyer Co. are advertising in the enclosed circular? Some of the school teachers think it is your "New International," but I have told them that I think it is the old "Unabridged," am I right?

Please send me by mail a few sample pages of the new "International," and oblige,

Yours respectfully,

H. J. VICKERY." 546

The circular enclosed in the above letter, advertised two dictionaries under the respective names of Webster's Empire Dictionary and Webster's College Dictionary, both of which are published by the Saalfeld Publishing Company, against which an injunction has recently been directed by the Circuit Court of Appeals in the Sixth Circuit and neither of which books is a genuine Webster's Dictionary, published by the complainant or its predecessors. 547

Letter No. 2.

"ISTHMIAN CANAL COMMISSION.

Culebra Canal Zone

March 25, 1911.

Dear Sirs:

Kindly quote me price for copy of your Inter-collegiate Dictionary, thin paper De Luxe edition, latest revised in Morocco binding. 548

Had correspondence with you about a year ago regarding the purchasing of your new Webster's International Dictionary, but have decided that a smaller edition will serve my purpose.

Your kind attention will be appreciated.

Respectfully,

ROGER S. ERDMAN."

549

Kirk N. Washburn—Direct.

The dictionary referred to in the above letter as our "Intercollegiate Dictionary" is a dictionary published by the above-named Saalfield Publishing Company, under the name of Webster's Inter-Collegiate. It is involved in a suit pending in this Court and was involved in the suit against Saalfield still pending in the Sixth Circuit and in which an injunction has been directed.

550

Letter No. 3.

"Kindly let me know the price of Webster's Inter-Collegiate dictionary and where I can obtain it. I have been trying some of the Department stores here but they don't seem to have that one. Have you any one in still better print? I desire a dictionary bound in Morrocco, printed on Bible paper. Please let me hear from you.

Respec.

551

ANDREA J. NIELSEN,
21 S. Broad St.,
Philadelphia."

The book referred to in above letter is the bogus Webster published by Saalfield.

Letter No. 4.

"Dear Sirs:

552

Do you publish Webster's Intercollegiate Dictionary, thin paper edition in Full Flexible Morrocco with thumb index, if so what is the price.

Yours resp.

FERDO A. MORRILL.

Old Orchard, Maine."

This letter was received by complainant on June 6th, 1911, and enclosed with it was a signed inquiry coupon clipped from one of our own ad-

Kirk N. Washburn—Direct.

553

vertisements of our Webster's New International Dictionary.

Letter No. 5.

"GEORGIANNA, FLA., Feby. 2, 1911.

G. & C. MERRIAM Co.,
Springfield, Mass.,

554

Gentlemen:

Will *Webster's Inter-Collegiate* Dictionary cover my wants in camp here, for the use of young people reading Shakespeare, Browning, Poe, George Eliot, Motley, R. L. Stevenson, Macauley and other English literature of the best class? If you know that it contains all words of these writers I will take my chances on others not named above, but it *must* cover these. Please advise and oblige.

Yours truly,

555.

F. W. HANDY."

Letter No. 6.

"CARTHAGE, Mo., July 31, 1911.

Gentlemen:

Your representative that is passing through Carthage, Joplin, Sacoxie and other points around here—Said he lived in Los Angeles, Cal., had been selling dictionaries Seven (7) years. Sold me one of your dictionaries the other day July first. He showed me his prospectus and called my attention to the No. of *new words* 35 I think he said and that my dictionary was a re-print could not rely on it. I gave him \$10. and my dictionary. I find the dictionary he left me is not as he represented it. I do not find the words, such as chauffeur and other words. My dictionary he took up was Websters' New Cosmopolitan, bound with sheep skin and the back was

556.

557

Kirk N. Washburn—Direct.

breaking. There is no D in the thumb index but two C's. of this dictionary he left me. Hoping you will help me to get the kind of dictionary he made me believe he was selling me. I know you can make him do what is right. I do not believe you want men out for you that misrepresents your books. Hoping to hear from you soon, I remain

558

MRS. JOHN V. KOONTZ,
703 East Chestnut Ave.,
Carthage, Mo.

P. S.—I don't know who or how to address this but I trust it will in time reach the proper place and get attention.

MRS. J. V. K.

559

"The dictionary your man sold me is Webster Universal Dictionary but none of the new words in it as he said there was."

The books referred to in the above letter as Webster's Cosmopolitan Dictionary and Webster's Universal Dictionary are the same dictionary published under different names by the Saalfeld Publishing Company to which reference has been made. Neither of them is a genuine Websters' dictionary and neither has ever been published by the complainant or its predecessors.

560

Letter No. 7.

"Gentlemen:

Will you please send me an advertisement of your Inter-Collegiate Dictionary.

Respectfully,

JOSEPH LAURIER,
Bronxwood Avenue, and
East 214th Street,
Williamsbridge, New York, N. Y."

Kirk N. Washburn—Direct.

561

Letter No. 8.

“BOSTON, MASS., NOV. 18, 1911.

MERRIAM Co.,

Please ship on our account
1 Webster Inter-Collegiate Dictionary cloth.

J. L. HAMMET Co.,
250 Devenshire Street,
Boston, by F. W. B.” 562

Letter No. 9.

“NORRISTOWN, PA., NOV. 28, 1911.

C. & G. MERRIAM Co.,
Springfield, Mass.

Gentlemen:

Some days ago you quoted me \$4. Sheep Inter-Collegiate Dictionary with 30% discount. I 563.
think that was the quotation. I have mislaid the letter and I am not sure. I enclose my check for \$11.20 for which please send me as quick as possible by express so that I may get them by Friday if possible four Intercollegiate dies/ in sheep.

If this is not enough I will send you the difference, or if it is too much let me have the difference. At any rate send me the books for I want them for a School Board that will close their terms first of the month and I went to get my 564
money from them before the new board comes in.

Yours resp.

THOMAS SAMES.

Please rush them.”

This letter was in reply to a previous letter of ours in which we had quoted him prices upon our Webster's Collegiate Dictionary.

565

Kirk N. Washburn—Direct.

Letter No. 10.

"NEWTON LOWER FALLS, MASS.

November 16, 1911.

MERRIAM & COMPANY,
Springfield, Mass.

DEAR SIR:

566

Kindly advise how much you ask for copy of the latest edition of Webster's Universal Dictionary. Also please advise if you get out a India Paper Edition.

Yours very truly,
AMERICAN MICA COMPANY,
F. W. Webster, Treas."

Letter No. 11.

567

"THE MORNING EXAMINER."

"CHARLES EWING HAYWOOD,
Editor and Manager.

BARTLESVILLE, OKLAHOMA, 11/15/11

MESSRS. G. & C. MERRIAM,
Springfield, Mass.

GENTLEMEN:

568

Please quote your very best cash prices in quantities on dictionaries such as being used by Kansas City Journal net cash f o b your nearest distributing point to Bartlesville and oblige,

Yours very truly,
(signed) PAUL CARTER,
City Circulating Examiner."

The dictionary referred to in the above letter

Kirk N. Washburn—Direct.

569

as being used by Kansas City Journal is the so-called Webster's New Standard Dictionary, published by the Syndicate Publishing Company and not by the complainant herein.

Letter No. 12.

"JERSEY CITY, N. J., Nov. 10, 1911

MERRIAM Co.,

570

Springfield, Mass.

GENTLEMEN:

Kindly send two (2) copies Websters Intercollegiate Dictionary, leather, with bill.

Very truly yours,

J. W. HARRISON."

Letter No. 13.

"JERSEY CITY, N. J., Nov. 15, 1911.

571

G. & C. MERRIAM Co.,

Springfield, Mass.

GENTLEMEN:

Relative to our order of Nov. 10th, send one copy Collegiate Dictionary," thin paper edition art cloth binding, list \$3.50.

In regard to your request as to how we got name of "Intercollegiate" would state customer specified this edition and finding same listed in American News Co. Book Catalogue, applied to them, and received reply that they were out of stock. 572

We then wrote you direct and upon receiving your letter of Nov. 11th, took up matter with customer, explaining the deception with the result that they have decided to order one copy for examination.

573

Kirk N. Washburn—Direct.

Kindly forward one copy without delay, and we will remit upon receipt of same.

Very truly yours,

J. W. HARRISON"

Letter No. 14.

"CHICAGO, ILL. 378 Wabash Ave.

574

% Allyn & Bacon.

G. & C. MERRIAM & Co.

Springfield, Mass.

DEAR SIRs:

Please quote price on Webster's Intercollegiate Dictionary, limp cover, thin paper edition.

Very truly yours,

P. H. VERNOR."

575

Letter No. 15.

"Nov. 30, 1911.

G. & C. MERRIAM & Co.

Springfield, Mass.

I wish to buy an Imperial Webster for class room. Please let me know what price you make to schools and teachers. The book is offered me at a low price by the Book Supply Co. but I am
576 afraid of getting inferior print and paper. Please address

MISS J. F. CLARKE,
Greensboro Fem. College,
Greensboro, N. C."

The book referred to as Imperial Webster, is evidently a Webster's Imperial Dictionary, published by Saalfield and not one of our publications.

Kirk N. Washburn—Direct.

577

Letter No. 16.

“ELON COLLEGE N. C. 10/12/1

MESSRS. G. & C. MERRIAM,
Springfield, Mass.

DEAR SIRs:

I see some of our papers carrying enclosed adv. As you are the publishers I presume your are backing the advs. and supplying the books. If so, on what terms? I should like to carry a similar offer if conditions are favorable. 578

Thanking you,

Respec.

J. O. ATKINSON, Editor,
THE CHRISTIAN SUN.”

The advertisement referred to was a dictionary coupon advertising Webster's New Standard Dictionary, published by the Syndicate Publishing Co. It was in all respects like the dictionary coupons contained in Complainant's Exhibit “Defendant's Advertisements” filled in this Court in the suit against the Syndicate Publishing Co. 579.

Letter No. 17.

“FORT SMITH, ARK. Sept. 29/1910

G. & C. MERRIAM & Co.

Springfield, Mass.

580

GENTLEMEN:

In my work of selling I have had so many calls for Webster's Universal Dictionary and I understand this is put out by you. I would like to have your prices on the different bindings, if there is more than one, also a prospectus or some

581

Kirk N. Washburn—Direct.

literature that will enable me to give the prospective buyer some idea of what they are getting. I have had two calls this week for your dictionary in the best binding, by that I mean leather, so I wish you would let me know at once whether I can place these orders, your terms upon same and what commission you pay.

I have had several years experience in this line
582 of work and am doing splendidly in this City. Two parties are awaiting my answer to them concerning the dictionary, so please advise me at once concerning same.

Yours very respt.,

Mrs. M. C. WRAY.

Fort Smith, Ark. Gen. Del.

P. S. Please send first mail contracts covering, especially the best binding; one party in particular,
583 wants the dictionary just as soon as she can get it.

W."

In the Fall of 1911 our Company had some correspondence with Mr. Emmett Sipe, Connellsville, Pa., R. F. D. 26, with respect to the purchase by him of our Webster's New International Dictionary. On or about November 14th we received from Mr. Sipe, the following letter:

581 Letter No. 18.

"CONNELLSVILLE, PA. Nov. 14, 1911.

G. & C. MERRIAM Co.,
Springfield, Mass.

DEAR SIRs:

Your kind letter you have sent me trying to show me your books. I am sorry to tell you but I have bought a cheaper one from the Connells-

Kirk N. Washburn—Direct.

585

ville Courier, a paper. It is pretty one and one of yours of course. Thank you very kindly,

EMMETT SIPE."

We thereupon wrote Mr. Sipe asking him to tell us the name of the book he had bought from the Connellsville Courier and received in reply, the following letter:

Letter No. 19.

586

"CONNELLSVILLE, PA. NOV. 17, 1911.

G. & C. MERRIAM Co.,

Springfield, Mass.

DEAR SIRs:

Yours 15th. I will say the book that I got is Webster's New Standard Dictionary. It is limp leather—red edges \$4.00 for 98 cents. I told you in my other letter that it was one of yours. 587

EMMETT SIPE."

Subsequently we received a post card from Mr. Sipe reading as follows:

Letter No. 20.

"CONNELLSVILLE, PA., NOV. 18, 1911.

G. & C. MERRIAM Co.,

Springfield Mass.

588

DEAR SIRs:

I wrote you letter and lost it before I got it mailed. May be some one will find it and drop it in a letter box. If not this card will answer. The name the book I got was Webster's New International Dictionary Limp leather red edges, \$4. sold here for 98 cents.

Yours very truly,

EMMETT SIPE."

589

Kirk N. Washburn—Direct.

Letter No. 21.

"COLLIER'S"

THE NATIONAL WEEKLY.

416 West 13th St. New York.

December 4, 1911.

590

G. & C. MERRIAM COMPANY,
Springfield, Mass.

DEAR SIR:

Recently I saw an advertisement by some Chicago concern of an India paper Webster's Unabridged Dictionary. I have always understood that you were the sole publishers of Webster's. Is this Chicago edition authentic?

Very truly yours,

591

CASPAR WHITNEY."

Letter No. 22.

"NASSAU COUNTY REVIEW.

FREEPORT, N. Y., JUNE 16 1909.

G. & C. MERRIAM CO.,
Springfield, Mass.

GENTLEMEN:

592

Will you kindly advise us how these people can sell a Webster Dictionary. We thought you were the only ones having that privilege.

Very truly

NASSAU CO. REVIEW.

W. C."

Enclosed in the above letter was a circular from the Saalfeld Publishing Company. The dictionary referred to therein is one of the Saal-

Kirk N. Washburn—Direct.

100

field Company's so-called Webster's dictionary and is involved in litigation.

Letter No. 23.

"Purchase Order

V. A. Owen Permanent Converter,
Normal Instructor Primary Phase,
Barnesville, N. Y., 4.30, 1909

100

No. 1764

M. G. & C. Manahan
Springfield, Mass.

Ship as immediately via c/o B. L. & W. Fgt.
above Number must appear on invoice. Render
separate invoice for each order.

1—Imperial Dict. Shoup Indexed.

Please cash

100

V. A. Owen Permanent Co.,

Approved:

V. A. Owen, Pres. per F"

That the dictionary referred to by the words
"Imperial Dict." is the dictionary published by
the Southfield Company under the name Webster's
Imperial Dictionary and is the same book also
published under the name "Webster's Universal
Dictionary."

100

597

Kirk N. Washburn—Direct.

Letter No. 24.

“Order

JOS. H. TISDALL

Wholesale & Retail Stationer—Blank Book Mfg.

School Supplies, Apparatus & Typewriters.

912 Arch Street

598

Printing—Engraving—Lithographing

PHILADELPHIA, PA.

G. & C. MERRIAM Co.,

Springfield, Mass.

Deliver with bill marked H6039. Via Freight.
To our Receiving Dept. 911 Cuthbert St.

I Doz. Dictionary Webster Intercollegiate indexed.

599

JOS. H. TISDALL,
per N. Baker.

Deliver no goods without signed order.”

Letter No. 25.

“CHARLESTON, VA. NOV. 25, 1908.

THE G. & C. MERRIAM Co.,

Springfield, Mass.

600 GENTLEMEN :

Please mail direct to Mr. Charles Ward, The
Gables. Halifax, England, 1 Webster's Intercol-
legiate Dictionary—Thin paper—cloth.

Yours truly,

S. SPENCER MOORE & Co.,

Kirk N. Washburn—Direct.

601

Letter No. 26.

"EASTHAMPTON, MASS. March 9, 1909.

G. & C. MERRIAM Co.,
Springfield, Mass.

DEAR SIRs:

Will you kindly send me the "Story of a Book" and also prices of your International and Inter Collegiate Dictionaries. 602

Yours truly,

EMILIEN E. GELINEAN,
Easthampton, Mass.

(Williston Seminary)

Letter No. 27.

"BIG SPRINGS, TEX., Aug. 28, 1908.

G. & C. MERRIAM Co.,
Springfield, Mass.

603

DEAR SIRs:

Please send me the price of your "Websters International Dictionary"—also your "Intercollegiate Dictionary" & your "Dictionary Habit."

Yours truly,

(MISS) ANNA MAE SCOTT,
Big Springs, Tex." 604

Letter No. 28.

HAVANA, May 28, 1908.

G. & C. MERRIAM Co.,
Springfield, Mass.

GENTLEMEN:

Please advise me the price of your Websters

605

Kirk N. Washburn—Direct.

Intercollegiate Dictionary so that I may send remittance for same.

Yours very truly,

FRED ACKERT."

Letter No. 29.

"DEAR SIRs"

606

Enclosed please find three dollars (\$3.00) for which please send me 1 volume of the Webster's Intercollegiate Dictionary. Hoping to receive same in a few days in good condition, I remain

WALDMAR A. L. JACOBSON,
22 Hardy Avenue,
Campello, Mass.

Letter No. 30.

607

"NUSBAUM BOOK & ART Co.,
100-102 Granby St.,
Cor. Brooks ave.,
Norfolk, Virginia.

March 3. 1909.

G. C. MERRIAM Co.,
Springfield, Mass.

GENTLEMEN:

608

Please let us have your catalogue on Webster's Inter Collegiate Dictionary, same being illustrated, thumb index, and bound in dark flexible leather.

Very truly yours,

T-LTG

NUSBAUM BOOK & ART Co.,

Kirk N. Washburn—Direct.

609

Letter No. 31.

"E. R. SHEPARD,
Macksville, Kans.

Jan. 15, 1908.

G. & C. MERRIAM Co.,
Springfield, Mass.

GENTLEMEN:

610

Please mail me circular information concerning Webster's Collegiate, Webster's Condensed, Webster's Intercollegiate Dictionaries and state the date of the latest edition of each. I want a new dictionary and will buy through my dealer, but he is not able to make sure that he can procure a late edition of any of these.

Yours truly,

E. R. SHEPHERD." 611

Letter No. 32.

"G. & C. MERRIAM & Co.,
Springfield, Mass.

Send "Dictionary Wrinkles" and description and price list of "Thin paper Intercollegiate" Dictionaries at once to

Box 283. HUGH ELMA BROWN,
East Hampton, Conn." 612

613

Kirk N. Washburn—Direct.

Letter No. 33.

"C. F. McCONNON & Co.
Publishers and Dealers in
School Books and Supplies, Maps, Globes, Charts,
etc.

WILKESBARRE, PA., Sept. 13, 1909.

614

MESSRS. G. & C. MERRIAM CO.,
Springfield, Mass.

GENTLEMEN:

Kindly send us your best terms to agents for
your Inter Collegiate, etc., Dictionaries and oblige.
If terms are satisfactory we may be able to send
you some business, you to do billing and collect-
ing direct from Boards of Education.

615

Sincerely yours,
C. F. McCONNON."

Letter No. 34.

"LAKE EDWARD, CANADA, Aug. 15-07

DEAR SIRs:

Enclosed please find money order for \$5. in
payment of an Intercollegiate Dictionary which
please send me care of above address.

616

Yours very truly,
R. S. GUNN."

Letter No. 35.

"YOUNGSTOWN, OHIO, Dec. 20th, 1908

Please send me specimen pages, price and terms
and Dictionary Wrinkles—as per ad in Dec. Out-
look. Of the "International."

Kirk N. Washburn—Direct.

617

I notice there is an Imperial Webster's; published in Akron, O. claiming to be latest up to date, etc., which is which.

R. E. WOLCOTT,
225 Lincoln Ave.

Letter No. 36.

Office of Superintendent of Schools,

F. E. WHITEMORE, Supt.

618

SOUTH HADLEY FALLS, MASS. Oct. 18, 1906

AMERICAN BOOK Co.,

Boston, Mass.

GENTLEMEN :

Please send me the following and charge the same to S. Hadley, 8 Webster's New Standard Dict. Student's common school Ed.

619

Yours, etc.

F. E. WHITEMORE."

Letter No. 37.

"November 5th, 1908.

Messrs. G. & C. Merriam Co.,

Please send me specimen pages and price of your new dictionary as advertised in the above cut from Everybody's Magazine for October.

620

DAVID A. MORRISON,
Detachment 7th Infty.
400 Brown Ave.,
Canton, Ohio."

The cut referred to in said letter was an advertisement of Webster's International Dictionary published by complainant in said magazine. In reply to said letter complainant sent the speci-

621

Kirk N. Washburn—Direct.

men pages and quotation of said dictionary, and thereafter and on or about December 2nd, 1908, complainant received a letter from said Morrison reading in full as follows:

Letter No. 38.

"CANTON, OHIO, Dec. 18, '08.

622 G. & C. MERRIAM Co.,

Dear Sirs:

In reply to your favor of to-day, wish to inform you that I have purchased a dictionary from a dealer here in town who handles your work.

Yours truly,

DAVID A. MORRISON,
400 Brown Ave.,
Canton, Ohio.

623

In reply to said last letter complainant on December 22nd, 1908 wrote to said Morrison as follows:

Letter No. 39.

"Dec. 22, 1908.

MR. DAVID A. MORRISON,
400 Brown Ave.,
Canton Ohio.

624

Dear Sir:

We have your letter of Dec. 18th and are glad to learn that you have purchased a copy of the dictionary from your local dealer. It is, of course, quite as satisfactory for us to have the order go to your local dealer as to come directly to us here at Springfield.

We enclose herewith a stamped return envelope and for the sake of our records we shall be

Kirk N. Washburn—Direct.

625

glad to know if the dictionary you have is Webster's International Dictionary. If it is not, will you kindly give us the exact title. We wish to thank you for the courtesy in advising us that you have secured the dictionary and hoping you will give us the above information, we are,

Yours very truly,

G. & C. MERRIAM COMPANY, 626
By''

WCS-M

In reply to the said last letter complainant received on or about January 9th, 1909, a letter from Mr. Morrison reading in full as follows:

Letter No. 40.

"CANTON, OHIO, January 8, 1909.

G. & C. MERRIAM Co.,

627.

Dear Sirs:

In ans. to your letter of some days ago I will say that the title of the dictionary I bought is the "Webster's Universal Dictionary." Please send me two copies of your Webster's Little Gem Dictionary as per your advertisement here inclosed to the following address and oblige,

DAVID A. MORRISON,
Company A, 7inf.
400 Brown Ave. 628.
Canton, Ohio."

Letter No. 41.

"BOSTON, MASS., Dec. 26, 1911..

THE G. & C. MERRIAM COMPANY,
Springfield, Massachusetts.

Gentlemen:

We desire to procure a dictionary printed on

-629

Kirk N. Washburn—Direct.

India paper and would like to know if you publish, or expect to publish the Standard or Inter-collegiate Dictionaries in this manner.

Any information you can give us relative to this matter will be appreciated.

With best wishes, we are,

Sincerely yours,

-630

THE CHRISTIAN SCIENCE PUBLISHING SOCIETY.

By David B. Ogden,
Manager."

LPC/B8

-631

During the year 1911 The Syndicate Publishing Company entered upon a plan or scheme for the sale and distribution of its said so-called Webster's New Standard Dictionary through the newspapers of this country. The plan was for such newspapers to sell said dictionaries in exchange for coupons and a small sum in cash. called "expense bonus." In pursuance of this plan said Webster's New Standard Dictionary has been widely and loudly advertised in the newspapers of a great many of the larger cities of this country, and among others in the following cities, to wit: New York City, N. Y.; Brooklyn, N. Y.; Buffalo, N. Y.; Springfield, Mass.; Cleveland, Ohio; Philadelphia, Pennsylvania; Dallas, Texas, Milwaukee, Wisconsin; St. Paul, Minnesota; Cedar Rapids, Iowa; Denver, Colorado; New Bedford, Massachusetts; Peoria, Illinois; St. Louis, Missouri; Waterbury, Connecticut; Houston, Texas; Topeka, Kansas; Kansas City Missouri; Omaha, Nebraska; Paducah, Kentucky; St. Joseph, Missouri; Wichita, Kansas; Los Angeles, California; Charlotte, North Carolina; Washington, D. C.; Nashville, Tennessee; and Baltimore, Maryland. Some of the advertisements which appeared in the newspapers of these cities I produce herewith to be filed as

-632

an exhibit marked "Complainant's Exhibit, Defendant's Advertisements." Said advertisements have resulted in the sale of an enormous number of said Webster's New Standard Dictionary, one paper alone, namely, the New York American, claiming to have thus disposed of over 100,000 of them. They have been widely bought by the public under the belief that they were buying the genuine Webster's Dictionary published by the Merriam Company. These books have been sold upon the reputation of the Merriam Company's Webster dictionaries. This unfair competition has resulted in very great damage to the complainant herein, some of our General Agents reporting that in cities where the local newspapers have exploited this book, the sales of the genuine Webster dictionaries published by our house, have fallen off to the extent of 50% or more. 634

That it is the name "Webster's Dictionary" which has caused the enormous sales of its so-called Webster's New Standard Dictionary, appears very clearly from the following fact: 635

As elsewhere appears, this book was formerly published by the Christian Herald, under the name or title of the Crown Dictionary. The sales of this dictionary under that name were so inconsiderable that it is almost impossible to find copies in the market; although the complainant has made diligent effort to do so, it has succeeded in locating only two copies of said Crown Dictionary, one of which is filed as an exhibit in this suit. Nevertheless, after defendant had changed its name from the Crown Dictionary to Webster's New Standard Dictionary, and although no other substantial changes are made therein, said book has been sold in the enormous quantities above indicated. Another circumstance indicating that it is the great reputation of 636

our Webster's dictionaries which the defendant wishes to appropriate by using the name of our dictionaries as the name of its dictionaries, is found in the fact that although the copyright has long since expired upon the Worcester's Dictionary, none of these enterprising competitors see fit to use the name Worcester in connection with their new dictionaries. They
 638 will be content with nothing except the name "Webster's." The obvious reason is that Worcester's Unabridged Dictionary has not been kept up to date, and for many years has been practically a dead book.

As explained in other affidavits to be filed herewith, the books respectively entitled "Webster's New Standard Dictionary" (subsequently called Webster's New Illustrated Dictionary) and
 639 "Webster's New Century Dictionary," published respectively by the Syndicate Publishing Company and the Cupples & Leon Company, are substantially the same book and both are substantially and almost exactly identical with a book previously published under the name or title of the "Crown Dictionary." All these books are filed as exhibits herewith and the most superficial comparison of them shows that without doubt they are printed or produced from the same plates, with merely minor and inconsiderable
 640 plate corrections, calculated to give the work an up-to-date appearance.

The said Crown Dictionary was published and copyrighted in the year 1904 by one Louis Klopsch, proprietor of the Christian Herald, as fully appears by a certified copy of the record of entry for copyright and certificate, showing receipt of copies, under the seal of the Copyright Office, hereto annexed and marked "Complainant's Exhibit, Copyright Certificates relating to Crown Dictionary." I am informed and believe

that two sets of plates of said dictionary were disposed of by said Louis Klopsch, one to the Syndicate Publishing Company or someone from whom they obtained the same; one set of plates to Cupples & Leon Company, from which said plates said dictionaries, Webster's New Standard Dictionary and Webster's New Century Dictionary were respectively produced. It was not until within the last few months that the complainant learned of the substantial identity of said Crown Dictionary with said Webster's New Standard Dictionary and said Webster's New Century Dictionary. 642

The Complainant is largely engaged in interstate and foreign commerce in its said Webster's dictionaries. Its said dictionaries are manufactured and printed at the Riverside Press, at Cambridge, Massachusetts, and are shipped by complainant from the State of Massachusetts to customers in substantially all the states of the United States on orders received therefor from customers located or residing in various states of the Union. Some of our dictionaries are manufactured at the City of Chicago, in the State of Illinois, and some at the City of Albany, in the State of New York, and are shipped from said states to other states of the United States to customers residing or located in said other states. Our dictionaries are also shipped from Massachusetts to foreign countries and go practically all over the world. Upon all our dictionaries thus shipped in Interstate and foreign commerce, our respective trade-marks, as set out in the bill of complaint herein, are stamped or affixed and go with the books into the market. These trade-marks have been so used by complainant continuously ever since the time of their adoption, as alleged in the bill of complaint. We also reproduce and use said trade-marks in our advertisement of 643 644

our said dictionaries and upon our letter heads and envelopes and in substantially all our literature referring to our said dictionaries, and have done so for many years.

I produce to be filed as exhibits herewith, specimen copies of some of complainant's dictionaries, to wit: Webster's Collegiate Dictionary, Webster's Academic Dictionary, Webster's High School Dictionary, Webster's Common School Dictionary and Webster's Primary Dictionary, showing complainant's trade mark as used upon its said dictionaries.

Said trade mark is used in a similar manner upon the other dictionaries published by complainant, as alleged in the bill, but which it is deemed unnecessary to file in this case. The defendant's said dictionaries, as alleged in the bill, have also been widely sold throughout the United States as interstate commerce, stamped and marked with the said imitation and infringement of the complainant's said registered trade marks as alleged in the Bill of Complaints herein.

KIRK N. WASHBURN.

Subscribed and sworn to before me/
this 2nd day of January, 1912. }

[SEAL.] CLARENCE S. CHAPIN,
Notary Public,
Springfield, Mass.

"COMPLAINANT'S DEMAND, COPYRIGHT CERTIFICATION
RELATING TO CROWN'S DICTIONARIES."

Class A XXc. No. 100756.

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED,

That on the 2nd day of November, 1908, Louis Klopch, of New York, N. Y., hath deposited in

Book V. Additions—Dices.

256

the title of a book, the title to which is in the following words, to wit:

The *Crown Dictionary of the English Language*. Based upon the unaltered dictionary of Noah Webster, L.L.D., and revised and brought up to date in accordance with the most current English and American authorities. By Edward T. How, L.L.D.

The *Christian Month*, New York, the right whereof he claims as proprietor in conformity with the laws of the United States respecting Copyrights.

Office of the Register of Copyrights
Washington, D. C.

James P. Jones

Librarian of Congress.

By

Thorvald Solberg

Register of Copyrights.

I hereby certify that the foregoing is a true copy of the original record of copyright. As evidence whereof, the seal of this Office has been hereunto affixed this eleventh day of December, 1911.

Edward Howells,

Assistant Register of Copyrights.

Copyright Office of the United States of America.
Washington, D. C.

[Seal]

257

Coramius Opera et omnia Latina Scripta et
Ammonia.

Library of Congress, Washington.

I hereby certify that two copies of the book entitled *The Crown Dictionary of the English Language*, Based upon the unaltered dictionary

653

Kirk N. Washburn—Cross.

of Noah Webster and revised and brought up to date (etc) by Edward T. Roe, registered for copyright on Nov. 3, 1904, No. 100756, Class A,XXc, were received as copyright deposits on Nov. 11, 1904.

In Witness Whereof, the seal of this Office has been hereunto affixed this sixteenth day of December, 1911.

654

ERNEST BRUNCKEN,

SEAL.

Assistant Register of Copyrights.

655

MR. BEAN: Counsel for defendants objects to said affidavit as irrelevant, immaterial and not relating to any issue in this cause and especially to so much and such parts thereof as relate to various dictionaries other than Webster's New Standard Dictionary or Webster's New Illustrated Dictionary or Webster's New Century Dictionary, published by others than either the defendant Syndicate Publishing Company or the defendant Cupples & Leon Company, or any party acting either for or under a license or any form of business agreement with either of them.

MR. HALE: Complainant tenders the witness to defendants for cross-examination.

CROSS-EXAMINATION by Mr. Bean:

656

x Q. 1. You have been connected with the Merriam Company for twenty-five years or more?

A. I have.

x Q. 2. In various capacities? A. Yes, sir.

x Q. 3. I suppose you began at the foot of the ladder and have climbed up? A. Not quite at the foot, but close to it.

x Q. 4. And during that period you have been quite familiar with the dictionary business of the Merriam Company as well as the English dic-

tionary business in general? A. So far as it would come naturally within my purview I have.

x Q. 5. How wide has been your purview? A. I have naturally known the general dictionary business, both ours and the work of other dictionary publishers, so much as would be public.

x Q. 6. You have been with this company since the early 80s? A. Yes, sir.

x Q. 7. Were you with the company when Webster's Condensed Dictionary was published in 1884. A. It was published just after I came here. 658

x Q. 8. Has that dictionary been published and sold either by you directly or by some other house under business arrangements with you ever since? A. It has.

x Q. 9. Is it now distributed by the Reilly & Britton Company? A. It is.

x Q. 10. I show you a copy of Webster's Condensed Dictionary bearing copyright notices as follows: 1884, G. & C. Merriam & Company; 1906 and 1909, G. & C. Merriam Company; and having on its title page the imprint Reilly & Britton Company, G. & C. Merriam Company, and ask you whether that is substantially the same dictionary published by your company in 1884, if you know? A. Supplemental matter has been added at the back and in this latest book a very considerable number of corrections and additions have been made in the text. 659 660

x Q. 11. Those corrections and additions in the text are made, are they not, by cutting out matter in the plates and substituting other matter therefor? A. Yes.

x Q. 12. The general appearance of the pages in the body of the book, by which I mean the style of type and the illustrations, is the same practically, is it not, as in the first edition? A. Yes.

x Q. 13. Do you know whether or not that dic-

tionary is distributed by Reilly & Britton Company with an inscription on the cover including the words "Twentieth Century Edition"? A. I think there is one edition with that, yes.

x Q. 14. Do you know whether or not that is substantially the same as the book to which I have called your attention? A. That book is a book that had additions that were made at the time the copyright was taken out in 1909, as I recall it.

x Q. 15. Was the addition to which you refer in 1909 made in a supplementary page or pages in one place in the book, if you recall it? A. Changes were made throughout the book where it was found necessary; additions and much supplemental matter was added at the back.

x Q. 16. That supplemental matter was not tables of words, not additional words and definitions and other things? A. In addition to that, at the same time additions were made such additions in the text were made as we then deemed necessary.

x Q. 17. But the book was printed from the old plates or renewals of the old plates thus corrected? A. Yes.

x Q. 18. Did you know Dorsey Gardner? A. I did.

x Q. 19. He was the editor, was he not, of Webster's Condensed Dictionary when published in 1884? A. Yes.

x Q. 20. Is he now living? A. He is not.

x Q. 21. Do you know when he died? A. I do not.

x Q. 22. About how long ago do you think it was? A. Ten or twelve years ago.

x Q. 23. You have had no editor distinctively for that book since that time, no new editor? A. The book of course has not been reset, but we

have competent editorial force here at work all the time.

x Q. 24. You now sell, do you not, that dictionary like the one to which I have referred? A. I think so.

x Q. 25. In large quantities, don't you? A. Yes, some considerable quantities.

x Q. 26. The book is sold advertised as premiums and advertised in connection with newspapers, is it not? A. Sold that way and other ways as well. 666

x Q. 27. Do you consider the book as up to date in this form at the present time?

MR. HALE: Objected to as calling for a mere conclusion of the witness and as irrelevant and immaterial.

A. As we fixed it up in 1909 it is pretty well up to date.

x Q. 28. You look at the picture of a locomotive in that dictionary and tell me if in your opinion that is a picture of an up-to-date locomotive? A. For the purpose for which that cut was designed it is eminently well fitted in my opinion, to explain the various parts of the locomotive. 667

x Q. 29. What do you call that part of a locomotive from which the smoke escapes and the cinders? A. When I see it on a locomotive I usually call it a smoke stack.

x Q. 30. If you didn't see it on a locomotive wouldn't you call it a smoke stack? A. You might call a large chimney to a mill a smoke stack, but it would be a chimney nevertheless. 668

x Q. 31. What do you find that is called in that dictionary? A. Chimney.

x Q. 32. Will you look at the picture of a printing press there and tell me if you think that is an up-to-date copy of a printing press? A. I am not an expert in printing presses.

x Q. 33. Do you think any such presses as that are used by your company now in printing dictionaries? A. I don't think so. They use larger presses.

x Q. 34. Would you consider a dictionary which did not contain or define the words "biplane," "hobble skirt," "hanger," or "volt," an up-to-date dictionary.

670

MR. HALE: Objected to as irrelevant and immaterial and further because it does not appear that other editions of this particular book and other editions of Webster's Dictionary do not contain the words mentioned.

671

A. It might very well be. The limits of an abridged dictionary are such that there might well be more important words that ought to be in a dictionary than those are.

x Q. 35. Are you aware whether or not this dictionary is advertised by your company and sold currently as an up-to-date abridged dictionary of the English language?

672

MR. HALE: Objected to as irrelevant and immaterial and as incompetent because not calling for the best evidence which would be the advertisements and representations themselves, and because calling for a conclusion of the witness.

A. We don't advertise it at all.

x Q. 36. Do you know whether it is advertised by others selling and distributing it under authority from you? A. I don't know.

x Q. 37. Haven't you seen that dictionary advertised within the last year, advertised in the newspapers of the country? A. I have, but without seeing the advertisements I couldn't answer that question.

x Q. 38. Is there any other dictionary bearing the title "Webster's Condensed Dictionary" advertised in this country, so far as you know, except that one? A. Certainly not. It is a copyrighted book.

x Q. 39. In your affidavit in this case you say that the Merriam Company's dictionaries "under the name of Webster's Dictionary have become a recognized and standard work of reference and are referred to, cited and relied upon by the courts, lawyers, scholars and literary men." In saying that did you include this Webster's Condensed Dictionary? A. I think Webster's Condensed Dictionary is not often cited. The big, unabridged dictionary is the one that is cited. 674

x Q. 40. And that unabridged or the dictionary which you now publish entitled "Webster's New International Dictionary" is the dictionary, is it not, to which reference is made in the exhibit attached to your affidavit in this case which is marked "Complainant's Exhibit—Webster in the Courts," which is referred to in that pamphlet? A. It is Webster's New International Dictionary, or the predecessors of the New International. 675

x Q. 41. So far as you know Webster's Condensed Dictionary has not been thus referred to by the courts of the country? A. They naturally take the big dictionary.

x Q. 42. So far as you know has it? A. I have no information on that subject. 676

x Q. 43. Do you know whether this dictionary has been advertised as the dictionary indorsed by and cited by the different courts of the country? A. I don't know that.

x Q. 44. You have been aware, have you not, that since about the year 1890 there have been various dictionaries bearing the name of "Webster" in their titles published and sold by various

publishers other than the Merriam Company? A. Yes, but under protest from us.

x Q. 45. You know there have been a good many such dictionaries, don't you? A. I know there have been several.

x Q. 46. Would you say there had not been at least twenty-five such dictionaries? A. I should think the number was smaller than twenty-five.

678 x Q. 47. Have you been familiar with the litigation in which your company has engaged with reference to some of these dictionaries? A. I have been somewhat familiar with that litigation.

x Q. 48. You are acquainted with the fact, are you not, that in the litigation between the Merriam Company and George W. Ogilvie an injunction was issued from the Circuit Court of the United States for the First Circuit, enjoining your company from in any manner claiming the exclusive right to the name "Webster" in the titles to dictionaries?

679

MR. HALE: Objected to, first, as incompetent, irrelevant and immaterial; second, as not the best evidence because the record of the court or a certified copy thereof is the only competent evidence of what was ordered and adjudged in the suit referred to; third, because counsel had not correctly stated the actual decree the court has made. The witness is requested to confine his answer to what he absolutely knows of his own knowledge.

680

A. I have of course seen the injunction, and as I recall it, it is not unqualifiedly in the language that you put it.

x Q. 49. Can you quote the language of it?

MR. HALE: Objected to upon the ground that the record or a certified copy of it may be easily produced and is the sole evidence

of what was adjudged and the witness is instructed that he is not compelled to answer this question.

MR. BEAN: The witness' knowledge as to the issuance of an injunction against his company is only sought in this question.

MR. HALE: The witness is requested to suspend his answer to this question until the question may be certified to the most convenient court to determine the propriety of the question, if counsel deem same material. 682

MR. BEAN: The witness declines to answer until instructed to answer by the court.

x Q. 50. If you have attached to your affidavit in this case copies of various letters received by you and your company from various people, will you please examine these exhibits and tell me how many of them refer either to Webster's New Standard Dictionary or Webster's New Illustrated Dictionary, published by the Syndicate Publishing Company, or Webster's New Century Dictionary, published by Cupples & Leon Company? 683

MR. HALE: Objected to on the ground that the letters speak for themselves.

A. There are three certainly, and the letter from F. E. Whittemore may or may not be that book, letter No. 36. The three referred to are letters Nos. 11, 16, and letters 18, 19 and 20, which refer to the same book; letter No. 41 may refer to that book. 684

x Q. 51. Are these all the letters which, so far as you know, you ever received regarding any dictionary of the English language which you yourselves did not publish? A. My opinion is we have received very many more.

x Q. 52. Have you not received inquiries about dictionaries which didn't have the name "Webster" in their titles asking if they could be purchased from you? A. I think not.

x Q. 53. Letter No. 11, to which you have referred, you say refers to the Webster's New Standard Dictionary published by the Syndicate Publishing Company. That dictionary has upon
686 its title page, has it not, the statement that it is published by the Syndicate Publishing Company? A. Yes, it has the imprint of the Syndicate Publishing Company.

x Q. 54. Letter No. 20 from Emmett Sipe recites that the dictionary which he purchased from the Conne'llsville Courier was "Webster's New International Dictionary, limp leather, red edges, \$4, sold here for 98 cents." Was that dictionary, which is your latest unabridged, ever
687 sold for 98 cents? A. No, the New International is not sold for 98 cents.

x Q. 55. Your dictionaries all bear a trademark of the Merriam Company which includes a wreath inclosing a monogram of the letters "N. W." do they not.

MR. HALE: Objected to upon the ground that it appears from the allegations of the bill as amended that all of the trade-marks registered by the Merriam Company do
688 not include the wreath and the monogram referred to.

A. All the books that are published and owned by G. & C. Merriam Company bear the circle with the wreath and the monogram inside.

x Q. 56. Have you ever seen a dictionary published by either of these defendants or by any other publisher bearing any one of the trade-

marks of the Merriam Company? A. Yes, some so close imitations that we have objected to them.

x Q. 57. Have you ever seen or objected to any imitation or to the use of your trade-mark or the imitation thereof either by the Syndicate Publishing Company or the Cupples & Leon Company? A. No, except so far as they have used the trade-name, our trade-name "Webster's Dictionary."

690

x Q. 58. Do you use the word "trade-name" and "trade-mark" as synonymous? A. They are partly synonymous.

x Q. 59. Does your company claim a trade-mark in the name "Webster" taken by itself?

MR. HALE: Objected to upon the ground that the bill of complaint sets up certain specific registered trade-mark and charges infringement thereof and that is the best evidence of the claim of the company.

691

A. I am not prepared to answer that question.

x Q. 60. Why? A. Because without investigation I shouldn't be able to tell definitely just what our trade claims are.

x Q. 61. I did not ask you about your trade claims. To the best of your knowledge and recollection have you ever seen or heard of a claim to the trade-mark by your company in the name "Webster" taken by itself? A. I have not had that part of the business to attend to here and I couldn't answer that question without looking up the claims.

692

IT IS STIPULATED that the exhibits referred to and filed with or annexed to the affidavit of this witness which has been stipulated as his direct examination, shall also be deemed in evidence without further marking. These exhibits consist of: the Certificate of Copyright of the Crown

693

Kirk N. Washburn—Cross.

694

Dictionary; the Certificate of Receipt of copies thereof by the copyright office annexed to said affidavit of Kirk N. Washburn; also the exhibit referred to in said affidavit and in the cross-examination of this witness as "Complainant's Exhibit—Webster in the Courts"; also the exhibit referred to in said affidavit as "Complainant's Exhibit—Defendant's Advertisements."

x Q. 62. Noah Webster died in 1843? A. I believe so, yes.

x Q. 63. Since then this company has had various editors of its various Webster dictionaries? A. There is a long succession of editors.

x Q. 64. As you understand it they have based their work on the work of Noah Webster?

695

MR. HALE: Objected to unless the witness can answer from his personal knowledge.

A. I don't know. I am not in the editorial end of things.

x Q. 65. Do you understand the dictionaries which you publish are called Webster's dictionaries because you publish them or because the first dictionary which the predecessors of the present company published, that is to say, the Webster's Dictionary of 1847, was a revision of the work of Noah Webster who had then recently died and subsequent dictionaries have been built up on that work?

696

MR. HALE: Objected to as immaterial.

A. We had by advertising made a name for Webster's dictionaries and it had become valuable as a trade-name and we continued publishing dictionaries as Webster's dictionaries because of that and

also because so much of the work as was available in the older books was used.

x Q. 66. That is to say, your dictionaries which you are now publishing are called Webster's dictionaries both because you and your predecessors have for a long time published dictionaries with the name "Webster's" in their title and because G. & C. Merriam in 1847 published a complete dictionary of Noah Webster? A. Yes, for both reasons. But it should be said that in the latest edition of the dictionary, the New International, comparatively little of Noah Webster's work exists. 698

x Q. 67. By that you mean that the latest Webster's Dictionaries which you publish are to a large extent the work of other lexicographers than Noah Webster? A. Certainly, because the language has grown immensely since those days and it necessarily follows.

x Q. 68. It is not then primarily because of the Websterian quality in your dictionaries that you now call them "Webster's," but because you have always called them Webster's Dictionary? A. Because "Webster's" has become a valuable trade-name. 699

x Q. 69. Do you think that Noah Webster could in any proper sense be called the editor of any one of the more recent editions of your Webster's dictionaries? A. I don't see how he could since he has been dead for sixty years.

MR. BEAN: I now offer Webster's Condensed Dictionary the Reilly & Britton Company, G. & C. Merriam Company, 1910, copyrights by G. & C. Merriam & Company and G. & C. Merriam Company, 1884, 1906, 1909, which has been shown to the witness Kirk N. Washburn and to the witness Harris W. Baker, marking the same "Defendant's Exhibit—Complainant's Webster's Condensed Dictionary." 700

Re-Direct *Reverences* by Mr. Hall:

Re-D. Q. 70. In answer to the last few questions of Mr. Bonn I understood you to testify that the book known to-day and for many years last past as Webster's Dictionary is a book of almost totally different literary contents than any book with which Dr. Noah Webster had anything to do,—is that correct? A. It is.

792 Re-D. Q. 71. It is also true that the Webster's Dictionary of to-day and for many years last past are of almost totally different literary contents than the Webster's Unabridged Dictionary of 1847, which was the first edition published by the Merriam Company,—is that correct? A. It is.

Re-D. Q. 72. Mr. Bonn referred to a considerable number of dictionaries published in recent years under the name of "Webster" by publishers other than the Merriams. Do you know whether or not 793 some of these books are not the same identical book with different titles but including the name "Webster"? A. I know that there are such books, with the exception of the Crown which was afterwards called something else, there have been one or two published in Chicago where the title has been changed.

Re-D. Q. 73. In other words there are not so many distinct dictionaries using the name "Webster" as might at first appear from the number of combinations of the word "Webster" in connection with other words? A. That is correct. 794

Re-D. Q. 74. Is it not also true that a number of these books that have thus used the name "Webster" are of the small, vest-pocket type? A. It is.

Re-D. Q. 75. So far as they go and to the extent of their contents, do the abridged Webster's dictionaries published by your company conform to the large unabridged dictionary from which they were respectively abridged and contain the same information and the same results of scholarship

and literary values? A. We live on your own side.

Re D. Q. 71. Is one or more of the numerous advertisements of Webster's New Standard Dictionary which are contained in "Compliment's Exhibit—Defendant's Advertisements,"¹ it is stated that your company had authorized to lay out the defendant's Webster's New Standard Dictionary and had offered a large sum; is that statement true in fact or substance, or is there any basis whatsoever for any such statement? A. There is absolutely no basis for any such statement.

Re D. Q. 72. It is exactly untrue? A. Exactly untrue.

Re D. Q. 73. Was there any offer of any kind or any negotiations of any sort made between the complainant and any one representing said Webb, Webster's New Standard Dictionary, to buy or acquire the same at any price or upon any terms? A. No negotiations of any kind which ever have ever been had looking to the purchase by G. & C. Merriam Company of the Synchrotype Publishing Company's books or any of them.

Re D. Q. 74. At any time? A. At any time.

Re D. Q. 80. Please state as much as you can of your present information with regard to the extent to which the complainant's Webster's Dictionary has been used in the schools of this country or of other countries and the extent to which they have been approved by school boards, school superintendents or state legislatures or other officials? A. Some time ago I made a careful examination and found that not less than 500,000 of Webster's unabridged Dictionary have been purchased for use in the schools of this country. It has been made by law the standard in various states, including especially Wisconsin, and Minnesota, and a large percentage of our other states.

my certain knowledge put into schools; school dictionaries which are published under an arrangement with us by the American Book Company go into the schools; their work is done entirely with the schools and school boards and they hold contracts with entire states and with many counties in other states which call for exclusive use of Webster's school dictionaries. Notably

710 there have been recent state adoptions of Webster's Dictionaries, school dictionaries in North Carolina, South Carolina, a few years ago in Virginia, in Louisiana, Arizona, New Mexico. Many cities have adopted the school dictionaries and are supplying pupils with them. Notable examples of these are New York, Philadelphia, Cleveland, Ohio; Columbus has recently adopted it, and many other cities which I don't now recall. It would be difficult to find a school in which

711 Webster's dictionaries are not installed.

Re-D. Q. 81. This situation has existed for how many years? A. It has existed as long as I can remember and was in existence when I came here nearly twenty-seven years ago.

RE-CROSS EXAMINATION by Mr. Bean:

Re-x Q. 82. You would not say, would you, that a good many dictionaries bearing the name "Webster" in their titles are not used in the schools of the country which are published by other

712 houses than the Merriam Company? A. I have no exact information on that subject. My very strong impression is that such is not the fact.

Re-x Q. 83. Isn't it the fact that Webster's dictionaries not published by the Merriam Company are in use in the schools of Philadelphia? A. I don't know, but I don't think so.

Re-x Q. 84. Did not the Merriam Company know in the early part of 1909 of the publication by the Syndicate Publishing Company of the dictionary

bearing the title Webster's New Standard Dictionary and receive from said company copies thereof? A. Yes, I think so; I don't remember the date.

Re-x Q. 85. Does your company not distribute or license the distribution of some editions of your dictionary other than those bearing the imprint of the American Book Company which did not have your imprint on the title page? A. I think not, but I cannot answer that question specifically without investigation. 714

Re-x Q. 86. Is not the 1864 edition, the dictionary of 1864, the dictionary first copyrighted by you in 1864, sold either by you or under an arrangement with you by others, with the imprint on the title page simply published for the trade? A. It may be.

Re-x Q. 87. The copyright on the 1864 dictionary has expired, has it not? A. It has.

Re-x Q. 88. Is not that edition to which I referred a relatively cheap edition of an unabridged dictionary and a photographic reprint of the 1864 edition? A. It is not a photographic reprint. It is put out in a very cheap form. 715

RE-RE-DIRECT EXAMINATION by Mr. Hale:

Re-Re-D. Q. 89. Is not the trade edition of 1864 book which has been referred to in your last answer to Mr. Bean an edition prepared with an up-to-date supplement? A. It has an up-to-date supplement, yes. 716

Re-Re-D. Q. 90. So that the book as actually sold is not simply a reprint of the 1864 edition? A. That is right.

Re-Re-D. Q. 91. And upon its title page the nature and contents of the book is plainly described, is it not? A. It is.

Re-Re-D. Q. 92. When you first learned that the Syndicate Publishing Company was using the

717

Walter I. Boynton—Direct.

name "Webster" in the title of a dictionary in or about the early part of 1909, was not your company litigating with other infringers of your rights in the name "Webster's" as applied to dictionaries? A. It was.

Re-Re-D. Q. 93. And have you continuously prosecuted such litigations? A. We have.

Re-Re-D. Q. 94. Has that litigation yet been terminated by a final order and decree of the court?
718 A. I think not.

Re-Re-D. Q. 95. Do you know whether or not one of such suits is now pending in the Circuit Court of Appeals for the Sixth Circuit in Cincinnati? A. There is such a suit.

Re-Re-D. Q. 96. And you are daily expecting a decision? A. Yes, sir.

(Signature waived.)

719

DEPOSITION CLOSED.

WALTER I. BOYNTON, a witness called on behalf of the complainant, having been first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. State your name, age, residence and occupation? A. My name is Walter I. Boynton; age,
720 thirty-eight years; I reside in the city of Springfield; I am a doctor of dental surgery.

Q. 2. Have you been more or less familiar with Webster's Dictionary in times past? A. I own one old large unabridged one that was put out some twenty years ago.

Q. 3. I take it you have been familiar with Webster's Dictionary? A. Yes, sir.

Q. 4. For how long have you been familiar with Webster's Dictionary? A. The one I own I think was published in 1888.

Q. 5. Do you remember Webster's Dictionary being used while you were a boy at school? A. I certainly do.

Q. 6. Was it used in the schools which you attended? A. It was.

Q. 7. Where did you go to school? A. North Amherst, Mass.

Q. 8. In your mind during the period of your acquaintance with it, what has been the reputation of Webster's Dictionary as a standard and authoritative work of reference? A. As far as I know it has been the accepted work of reference in the community in which I have lived; in fact it is the only dictionary with which I was at all familiar, the only dictionary we ever thought of. 722

Q. 9. Do you know who has been the publisher of the Webster's Dictionary to which you have just referred? A. I have known for the last sixteen years.

Q. 10. Who was that? A. G. & C. Merriam Company. 723

Q. 11. Do you remember an occasion in or about the month of December, 1909, when you were canvassed by an agent for Success Magazine? A. I remember distinctly being canvassed by Mr. Bond; I couldn't have told absolutely the month or date.

Q. 12. It was about that time in 1909? A. Yes, sir.

Q. 13. Please state what occurred upon that occasion? A. I returned from lunch somewhere in the vicinity of half-past one to quarter of two. I was in the operating room; the door opened in the reception room and I went out and Mr. Bond confronted me with a proposition for a renewal of my subscription for Success Magazine, for which I had subscribed for one or two years I guess. As we treat most solicitors I told him, no, I guessed not, that I would buy individual copies. As an in- 724

725

Walter I. Boynton—Direct.

ducement, he said they were offering a prize package with it, an inducement in the form of a dictionary, the Inter-Collegiate Dictionary.

- Q. 14. Did he give you the full name of the dictionary? A. I really couldn't say; I think he must have, because he said the Inter-Collegiate. Naturally when he spoke of that I thought of these people here. What brought it to mind was the
- 726 fact that some friends of mine had recently procured one of the Merriam's new dictionaries and I was not positive as to the last name but supposed it was the same book. I questioned him in regard to it and told him I didn't know they ever put out books under subscription in that way and I was very much surprised, because the book I had in mind, the mental comparison was, the book these friends of mine had recently procured—I knew that dictionary was sold in the vicinity of
- 727 \$5, and I think this was put out as \$1.49 bonus above the subscription price to the magazine. So I referred to it and I says, "Is it published by the G. & C. Merriam Company?" He says, "It must be; it is a Webster's dictionary." I says, "I never knew they put out one to go as a subscription dictionary, I didn't know they had ever put out a book only to go through the regular channels, and I was very much surprised because I supposed their works were all high-grade, standard works and they certainly couldn't put out the
- 728 book I had seen for that price." I told him I knew Mr. Washburn very well and H. W. Baker and O. M. Baker, and I suppose I might step to the telephone and call them up. Then I made the remark, "It is only \$1.49, I guess I will subscribe." That is virtually all the conversation there was. He says, "It must be, it is a Webster's dictionary."

Q. 15. Did you receive the book subsequently?
A. Yes.

Q. 16. Was it the book entitled "Webster's Inter-Collegiate Dictionary? A. Yes, sir.

Q. 17. What was there about the proposition that specifically made you think it was a book published by G. & C. Merriam Company? A. The mere fact I spoke of it in the terms I did, that I didn't know they had put out a book as a subscription book for a bonus with a magazine subscription, that was the only thing, having virtually known the firm and the individuals, several of them, composing the firm, I had never known they put a book out to be put out under such circumstances. When I spoke of going to the 'phone Mr Bond made no objection so far as that went. He led me to believe, and I think believed himself the book was published by these people. He replied to me, he says "It must be, it is a Webster's Dictionary." 730

Q. 18. What particular part of the title of that dictionary brought the Merriam Company to your mind? A. The term "Webster." 731

Q. 19. You have spoken of a book which the Merriams published and sold at the price of \$5; do you know the title of that book? A. Yes, because I looked it up, I don't know whether the same night or two or three days after. These friends lived directly across the street and I was over there and I said, "Let me see your dictionary."

Q. 20. What is the title of that dictionary? A. I think it is Webster's Collegiate Dictionary.

Q. 21. Did you think you were to receive that book upon this subscription for Success Magazine? A. I did, until the next day or the day after it happened I went up in the car with Mr. Washburn—we live on the same street about four houses apart—and we got off the car and walked down and I says, "I didn't know before you put out dictionaries to be given as prize packages or bonus with a subscription to magazines." He says, "We don't." I says, "I subscribed for one through Mr. Bond 732

733

Walter I. Boynton—Cross.

with Success Magazine." He says, "It is certainly not our dictionary."

Q. 22. What effect did the good reputation which Webster's Dictionaries have in your mind have to do with your making this purchase through Success Magazine? A. Simply led me to subscribe to it.

734

Q. 23. Did you examine the book called "Webster's Inter-Collegiate Dictionary" before agreeing to buy it? A. No I did not. I did not see the book.

Q. 24. Upon what did you rely as an assurance that the book was worth purchasing? A. Upon the fact it was a Webster's Dictionary and Mr. Bond when I spoke to him about the G. & C. Merriam Company, he says, "It must be, it is a Webster's Dictionary."

735

CROSS EXAMINATION by Mr. Bean:

MR. BEAN: This entire deposition I object to as irrelevant and immaterial in either the case of G. & C. Merriam Company against the Syndicate Publishing Company or the G. & C. Merriam Company against Cupples & Leon Company because it relates to a dictionary published by neither of them and does not relate to a dictionary which is in issue in this suit.

736

xQ. 25. You say you did not see the dictionary until later? A. No, I did not.

xQ. 26. You were led to subscribe to it by what Mr Bond said? A. Yes.

xQ. 27. You understood him to represent the Success Magazine? A. Yes.

xQ. 28. Would you have reached the conclusions about the dictionary which you say you did reach if you had had an opportunity to examine the dic-

tionary and had seen that on its title page it bore the imprint of some other publisher than the G. & C. Merriam Company?

MR. HALE: Objected to as incompetent, irrelevant and immaterial and as calling for a guess as to what the witness would have done under certain circumstances which did not exist.

738

A. After looking the book over I should have drawn the conclusion that I didn't care for the book.

x Q. 29. That is not what I asked you. Would you have drawn the conclusion which you say you did draw and which led you to purchase the book or subscribe for the magazine if you had seen the book and observed that upon its title page it was described as published by some other house than the Merriam Company? A. I shouldn't have subscribed to the book, if that is the answer you want. I had seen this other book with my wife across the street; we had this old edition of 1888 and I said "We need a new edition," and then I told her I had bought one.

739

x Q. 30. Wouldn't you naturally conclude if you saw the imprint of some other publishing house than the Merriam Company on the title page of the dictionary that such dictionary was not one of their publications? A. I probably would, but I didn't see the dictionary.

740

x Q. 31. My question was if you did, I am assuming you did. When you got the dictionary you looked at it? A. I did.

x Q. 32. And saw that it was published by some other publishing house than the Merriam Company? A Yes.

x Q. 33. And then you knew it was not the dictionary which you thought you were going to get? A. I certainly did.

x Q. 34. You say you were doubtful about its being one of their books, or surprised, because you had not supposed they sold their books as a bonus at any time, but only through the regular channels, is that right? A. That is right.

x Q. 35. You did not then know that some of their dictionaries they do dispose of as a bonus with subscriptions? A. I didn't know.

742 x Q. 36. You don't know now that they do it? A. I don't.

x Q. 37. Nor that they do it with a certain dictionary at a price less than one dollar? A. I don't.

x Q. 38. You remember, do you not, that the dictionary which you got is published by A. J. Saalfeld? A. I couldn't say who that book was published by.

743 x Q. 39. In your affidavit in this case you say you found upon its receipt that it was published by A. J. Saalfeld Company of Akron, Ohio? A. I couldn't say now; it has been some time.

x Q. 40. If you made that affidavit the 14th of December, including that statement, you have no doubt that is correct? A. I have no doubt.

x Q. 41. You have lived in Springfield a good while? A. Sixteen years.

744 x Q. 42. You say you happen to know very well personally several of the men connected with the Merriam Company? A. Reasonably so, yes, sir.

x Q. 43. So that you have known particularly well that they published Webster's dictionaries? A. Yes, sir.

x Q. 44. Up to the time you purchased this dictionary you did not know, I presume, that there were any Webster's dictionaries to be had that they did not publish? A. I did not.

x Q. 45. You knew nothing about whether they actually had or claimed to have exclusive— A. I will retract that last remark. I do remember

seeing in the paper—and that is what led me to make the remark to Mr. Bond and Mr. Bond practically assured me it was a Webster's—I do remember reading in the paper some time before about suits they had entered against other houses, and I suppose that is what made me skeptical when I spoke to Mr. Bond as I did in regard to the book.

x Q. 46. You didn't understand that Mr. Bond represented the publisher of the dictionary? A. I didn't know anything about it; he simply solicited subscriptions for Success Magazine and offered this as an inducement at the price. 746

x Q. 47. Apparently he didn't know what he was selling, and you didn't know what you were buying? A. It was apparent to me he did not know what he was selling, because when I questioned him he assured me it was.

x Q. 48. If he did, and it was not, then he didn't know? A. Evidently he didn't. 747

(Signature waived.)

DEPOSITION CLOSED.

GEORGE J. CLARK, a witness called on behalf of the complainant, having been first duly cautioned and sworn, testified as follows: 748

DIRECT EXAMINATION by Mr. Hale:

Q. 1. State your name, age, residence and occupation? A. George J. Clark; residence, 131 Bowdoin Street; assistant teller of the Chicopee National Bank; age, twenty-six.

Q. 2. Are you also the clerk of the common council of the city of Springfield? A. Yes.

Q. 3. How long have you been acquainted with

Webster's Dictionary to a greater or less extent?
A. About sixteen years.

Q. 4. What has been the reputation of Webster's dictionaries, as you understood it, as reliable and standard works of reference? A. The very best of its kind.

Q. 5. Do you know the name of the publishers of the Webster's dictionaries to which you have referred? A. Yes.

Q. 6. What is it? A. G. & C. Merriam Company.

Q. 7. How long have you known the G. & C. Merriam Company as the publishers of Webster's Dictionary? A. I must have known them ten years.

Q. 8. Did you use one of the Merriam Company's Webster's dictionaries while in school? A. Yes, sir.

Q. 9. Where did you go to school? A. The public schools of Springfield.

Q. 10. You recently had occasion to purchase a dictionary from the Springfield Union, a newspaper of this city? A. I purchased one; I didn't purchase it myself; I had it purchased for me.

Q. 11. How did you come to purchase this dictionary? A. Saw the advertisement in the paper.

Q. 12. How was it advertised? A. As I read it it was Webster's Dictionary; as I knew the Webster's Dictionary I supposed it was a Merriam dictionary.

Q. 13. It was to be sold by coupons cut from the paper and a small cash payment? A. That is the idea.

Q. 14. What book did you think you were getting when you bought this book? A. I thought I was getting G. & C. Merriam's Webster's Dictionary.

Q. 15. Did you examine this book at or before the time you bought it? A. No.

Q. 16. Upon what did you rely as an assurance that the book was a dictionary worth purchasing and such as you would desire to have? A. I sized it up from the word "Webster's."

Q. 17. What did that word mean to you in that respect? A. I thought it was G. & C. Merriam's "Webster," because being right here in Springfield, I knew a new edition was about to come out and I thought they were unloading an old edition, 754 something of that sort.

Q. 18. Did you think that in connection with the price at which the newspaper offered it? A. Yes; that is what made me buy it.

Q. 19. You knew of course that this was a small or an abridged dictionary and not one of the large unabridged Webster's dictionaries? A. Yes, sir.

Q. 20. What connection did you think it had with the large standard Webster's Unabridged Dictionary? A. I didn't take that into consideration at all. 755

Q. 21. Do you know, except as you have been told, whether or not the book you bought from the Springfield Union is or is not a genuine Webster's Dictionary? A. I know it is not a G. & C. Merriam's Webster's.

Q. 22. You expected to get a G. & C. Merriam Company's dictionary? A. Yes, I did.

Q. 23. I show you a book entitled, "Webster's New Standard Dictionary," which has been offered in this case as "Complainant's Exhibit— 756 Cowles Dictionary," which Mr. Cowles purchased from the Springfield Union: is that a copy of the book which you purchased from the same paper? A. Yes, that is the same thing.

Q. 24. Did you ever hear of a book entitled the "Crown Dictionary"? A. No, not until recently.

Q. 25. You mean not until mentioned to you in connection with this suit? A. With this case.

Q. 26. When you bought this book called "Web-

mer's New Standard Dictionary" from the Springfield Union, did you intend to buy the book called the "Cross Dictionary," a copy of which I show you and which has been marked for subscription in this case, "Compliment's Exhibit A," referred to by M. W. Bates?"

233 Q. Yes: I object to that question as the witness has already testified he meant to buy a Russian Dictionary.

A. No, I do not think so.

Q. 27. Did the Cross Dictionary have any good reputation in your mind? A. I never heard of it.

234 Q. 28. Did you know at the time you bought this dictionary from the Springfield Union that more than one concern, that is concerns other than the Russians, published dictionaries under the name of Webster's Dictionary at that time? A. I know something about it, yes.

Q. 29. What did you know about it? A. I know they had been used as something of that sort and some concern was using the name "Webster."

Q. 30. Was that all you knew about it? A. That was all I knew.

Cross-Examination by the Court:

235 Q. 31. You have heretofore made an affidavit in this case, have you not? A. Yes.

Q. 32. I find that in that affidavit you said that you bought the dictionary from the Springfield Union, "thinking that, being called a 'Webster,' it was one of the genuine series of Webster's dictionaries." What do you mean by the term "genuine series?" A. I always considered the genuine Webster's Dictionary a R. & C. American Company's dictionary.

Q. 33. When you think the genuineness of a

Webster's Dictionary depends upon its house of publication? A. No, no, no.

Q. 38. Prospective of whether it is or is not based upon the work of Noah Webster? A. I don't get quite what you mean.

Q. 39. You have said that in your mind the genuineness of a Webster's Dictionary depends upon its house of publication. Is that your opinion irrespective of whether a Dictionary is or is not based upon the work of Noah Webster? A. [57] No, you mean whether it is based on the original work of Noah Webster?

Q. 40. I am asking whether the house of publication would control the genuineness, in your mind, of a Webster's Dictionary irrespective of whether it was based on the work of Noah Webster or not? A. Yes, I do.

Q. 41. So that if the Merriam Company should publish a Dictionary which was not based on the work of Noah Webster you would still think it was genuine? A. I would. [58]

Q. 42. You never knew that anybody else but the Merriam Company published Webster's Dictionary, except you and you know something about there being some litigation between them and somebody else? A. I read it in the paper.

Q. 43. What is all you know about it? A. That is all I know.

Q. 44. You don't know how long it has run the length of time, other publishers have published so-called Webster's Dictionaries, do you? A. No, I don't know. [59]

Q. 45. You were asked what you knew of the circulating of Webster's Dictionary and you said as part of your answer: "It is the best of its kind." What does he say more? A. Of course I don't know more about dictionaries, but I think if I did

taking it from G. & C. Merriam's dictionary it was the very best I could get.

x Q. 42. That is you think they as publishers get out the best English dictionary? A. I do.

x Q. 43. Irrespective of whether they call it the Webster's or anything else? A. Yes.

x Q. 44. You didn't look at the dictionary either before or when you bought it? A. No.

766 x Q. 45. When did you first find it was not published by the Merriam Company? A. I should say about a week after I got it, inside of a week after I had it in my hands.

x Q. 46. Who told you it was not published by them? A. I recognized it myself.

x Q. 47. Then you did look at it some time? A. I did.

x Q. 48. At the title page? A. Yes.

767 x Q. 49. You then saw it was published by the Syndicate Publishing Company? A. I didn't notice that so much as it was not G. & C. Merriam.

x Q. 50. You noticed it had the name of some other publisher than the G. & C. Merriam Company on the title page? A. Yes, sir.

x Q. 51. You noticed also, did you not, that the title page stated it was based on the unabridged dictionary of the English language of Noah Webster? A. No, I don't know as I did.

768 x Q. 52. Looking at the Cowles dictionary which you have identified as like the one you purchased, you find that statement, do you not, "Based on the unabridged dictionary of the English language of Noah Webster," you notice that statement do you not? A. Yes, sir.

x Q. 53. That was on the dictionary which you purchased? A. Yes, undoubtedly.

x Q. 54. If anybody else than the Merriam Company should publish a reprint of a dictionary which they had published, would you or not consider that a genuine "Webster"?

George J. Clark—Re-direct.

769

MR. HALE: Objected to as irrelevant and immaterial, because concededly defendant's dictionaries are not reproductions or reprints of any previous genuine Webster dictionary.

A. I would not.

RE-DIRECT EXAMINATION by Mr. Hale:

770

Re-D. Q. 55. I show you a dictionary entitled "Webster's New Century Dictionary," which has been marked in this case "Complainant's Exhibit C, referred to by H. W. Baker," and ask you if you intended to buy or thought that you did buy that book from the Springfield Union when you bought the other book entitled, "Webster's New Standard Dictionary"? A. No, I did not.

Re-D. Q. 56. I ask you if you know whether the three books entitled respectively the "Crown Dictionary," "Webster's New Century Dictionary," and "Webster's New Standard Dictionary," all of which have been shown you, are substantially the same book printed from the same plates? A. No, I did not. 771

RE-CROSS EXAMINATION by Mr. Bean:

Re-x Q. 57. When you purchased a dictionary from the Springfield Union you simply meant to buy the dictionary they were offering for sale? A. No; I knew that Mr. Plummer and Mr. Baker were good friends and I knew a new dictionary was coming out and I thought they might have had some old plates or something of that sort and run out the edition, or else had them on hand and wanted to get rid of them before the new edition came out and this was a good way to get rid of them and get something for them. 772

Re-x Q. 58. You thought the price was so low

773

George J. Clark—Re-Re-direct.

that it couldn't be a price at which the Merriam Company would sell the dictionary unless to get rid of some old ones? A. I thought that was the idea.

Re-x Q. 59. You have not known, I presume, that the Merriam Company in fact sells one of its dictionaries as a premium with newspapers, have you? A. No, I knew nothing about that.

774 Re-x Q. 60. At a price exactly or approximately the same as that at which this was sold? A. I knew nothing about that.

RE-RE-DIRECT EXAMINATION by Mr. Hale:

Re-Re-D. Q. 61. Did you suppose that any Webster dictionary published by the Merriam Company was worth the price asked by the Springfield Union for the book which you bought? A. I knew they had a pocket edition of
775 course, that was a cheap book; but from what I had seen of this pictured in the paper I believed it was a larger book and gave more words.

Re-Re-D. Q. 62. That made you think it was still more worth buying at the price? A. Yes, sir.

RE-RE-CROSS-EXAMINATION by Mr. Bean:

Re-Re-x Q. 63. When did you say you bought this dictionary? A. I should say along in the
776 early fall.

(Signature waived.)

DEPOSITION CLOSED.

(Adjourned to Saturday, February 24, 1912, at 10 o'clock A. M.)

Saturday, February 24, 1912.

Met pursuant to adjournment at 10 o'clock A. M. at the office of the G. & C. Merriam Company.

PRESENT:

THE SPECIAL EXAMINER.

WILLIAM B. HALE, Esq.,

778

Counsel for Complainant.

No appearance for either defendant.

CHARLES ROGERS, a witness called on behalf of the complainant, having been first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation? A. Charles Rogers; sixty-one years and a half; 7 Locust Street, Springfield, Mass. I am retired from business.

779

Q. 2. What was your business before you retired? A. I was a tradesman, that is a store keeper, an optician and sold photographing supplies, known as Charles Rogers of Springfield; now the business is known as Charles Rogers & Company.

Q. 3. The business was conducted in Springfield, Mass? A. Yes, sir.

Q. 4. In times past have you been more or less familiar with Webster's Dictionary? A. More or less, yes, sir.

780

Q. 5. For how many years? A. I should say quite familiar for twenty years.

Q. 6. You have known of it but not so familiarly going back how far? A. There are only two dictionaries I ever knew anything about, Webster's and Worcester's.

Q. 7. You knew of both these dictionaries when

you were a young man? A. Yes, about thirty years ago.

Q. 8. During this period what has been your understanding as to the reputation and authority of Webster's Dictionary as a book of reference? A. As the best one.

782 Q. 9. Do you know who was publisher of the Webster's Dictionary to which you have just referred? A. I recognized the Merriams to be the handlers of that dictionary and the developers of it, whether they were the originators of it I would not be sure.

Q. 10. During the fall of the year 1911, did you purchase a dictionary from the Springfield Union, a newspaper of this city? A. I did.

Q. 11. What was the name of that dictionary? A. Webster's New Standard Dictionary.

783 Q. 12. I show you a dictionary which has been offered in evidence and which was the book purchased by Mr. Clinton W. Cowles from the Springfield Union and ask you if that is a copy of the book which you purchased? A. It is the identical thing.

Q. 13. When you bought this book what book did you expect to buy and believe you did buy? A. I believed I was buying a book which was issued by the Merriam folks. No doubt of it crossed my mind.

784 Q. 14. What made you think you were getting a book published by the Merriams? A. From a business enterprise, that it was issued on account of a probable increase or extension of business, that was my impression.

Q. 15. What was there about the name or title of the book that led you to think it was one of the books published by the Merriams? A. The name and title of the book represented the Merriams to me.

Q. 16. What particular word in the title more especially. A. "Webster."

Q. 17. At the time you bought this book did you know that any other persons beside the Merriams were issuing dictionaries described as "Webster's Dictionaries"? A. No, sir.

Q. 18. Did you ever hear of a dictionary called the Crown Dictionary? A. No.

Q. 19. I show you a dictionary entitled the "Crown Dictionary," which has been marked for identification, "Complainant's Exhibit A, referred to by H. W. Baker," and ask you if you ever saw that book before or knew anything about it? A. I should say not, sir. 786

Q. 20. When you bought Webster's New Standard Dictionary from the Springfield Union, did you intend to buy from that paper the book called the Crown Dictionary? A. No. What do you ask me that for?

Q. 21. Did you know at that time that you did in fact buy the book called the Crown Dictionary? A. No. 787

Q. 22. Did you know the book which you bought entitled, "Webster's New Standard Dictionary," is printed from the same plates as the book shown you and which is called the "Crown Dictionary"? A. No.

Q. 23. I also show you a book entitled, "Webster's New Century Dictionary," and ask you if you intended to buy that book from the Springfield Union and thought you were buying it? A. I couldn't answer that. 788

Q. 24. What bearing did the good reputation of the Merriam Company's Webster's dictionaries have with you in deciding to buy this book from the Springfield Union? A. That is simple of course; the Merriam's dictionary was a standard work, and when you ask me why I bought it from the Union I have told you already what I bought

789

Kirk N. Washburn, Jr.—Direct.

it from the Union for, on account of the price and its apparent convenience.

Q. 25. Did you examine the book at or before the time you bought it? A. No.

Q. 26. Upon what did you rely as an assurance that it was a good book? A. By its title, "Webster's Dictionary."

790

NO CROSS-EXAMINATION.

(Signature waived.)

DEPOSITION CLOSED.

KIRK N. WASHBURN, Jr., a witness called on behalf of the complainant, having been first duly cautioned and sworn, testified as follows:

791 DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your full name, age, residence and occupation? A. Kirk N. Washburn, Jr., thirty; 37 Pineywoods Avenue, Springfield; lexicographer.

Q. 2. You are employed in the editorial department of the G. & C. Merriam Company in the preparation of their dictionaries? A. I am.

Q. 3. How long have you been so employed? A. Eight years.

792 Q. 4. Have you examined to any extent the book known in this case as Webster's New Standard Dictionary published by the Syndicate Publishing Company? A. I have.

Q. 5. Will you please look at that book which has been offered in evidence, and I show you the copy marked "Complainant's Exhibit B referred to by H. W. Baker," and point out any words which are mis-spelled or improperly or inadequately defined, giving your reasons for any answer which

you may make? A. The word *Yiddish*, on page 872, is defined as "a kind of composite language spoken by foreign Jews in England." Aside from the inadequacy of "a kind of composite language," as a characterization of what is well known to be a Middle German dialect developed under Slavic and Hebrew influences, it is most curious that the author restricts the use of Yiddish to foreign Jews in England. It is hard to see how anyone could be ignorant of the fact that there is a very large Yiddish speaking population in New York City, with Yiddish newspapers and a very flourishing Yiddish theatre. There is no question that Yiddish is spoken by a number of times as many people in the United States as in England. 794

The word *tilde*, on page 809, is defined as "A mark (—) paced over *n* in Spanish words to indicate that the vowel following it is to be sounded as a 'y' ". This statement is false and inaccurate, as the tilde really indicates that the following vowel is to be sounded as if preceded by "y." 795

A *Turkish* bath, on page 830, is defined as "A hot air bath." Certainly no one who had ever taken one could so define it.

Billiards, on page 116, is defined as "A game played on a rectangular cloth-covered slate table, 12 ft. x 6 ft. in size, with ivory balls and a cue." This definition evidently refers to the English billiard table, the standard size of which is 12 ft. x 6, but should add that the table as used in England has six pockets. The standard size in the American table is 10 ft. x 5 ft., and a large majority of American tables are still smaller. 796

The word *lac*, upon page 482, has as one of its definitions, "100,000 rupees equals \$500,000 (about)." As the actual value of 100,000 rupees is in the vicinity of \$32,400, the author's estimate of \$500,000 is grossly inaccurate.

Pasteurize, upon page 588, is defined as "To

inoculate with the bacillus which produces a specific disease." This would hardly cover the use of the word in "Pasteurized milk."

Viscera, is defined as "The intestines." The word has never been so limited either in Latin or in English, but applies to all the internal organs, lungs, heart and stomach, as well as the intestines.

798 *Oxygen*, upon page 576, is defined as "A colorless, inodorous gas which with nitrogen and argon constitutes one-fifth by volume of the atmosphere and in combination with hydrogen forms water." Oxygen and nitrogen together constitute more than 95 per cent. of the air, so that the author's estimate of one-fifth is grossly inaccurate. This is inconsistent with other parts, because nitrogen is said, on page 555, "to constitute four-fifths by volume of the atmosphere."

799 *Perlsh*, on page 590, is defined as "An impure carbonate of potash." As a matter of fact potash is itself a carbonate. The author, had he known any chemistry at all, would have said an impure carbonate of potassium.

Paralysis, on page 583, is defined as "Loss of the power of sensation of one or more parts of the body, palsy." This is entirely inadequate as it represents only one form of paralysis, the commoner form being motor paralysis in which loss of the power of motion occurs.

800 *Kaften*, upon page 477, is defined as "kind of vest worn in oriental countries." "A kind of vest" can hardly be regarded as adequately descriptive of a garment that is in reality a long gown belted at the waist.

In the "Table of Familiar Allusions."

Consols are defined as "English public securities at 3%." This information is somewhat inadequate as it has been 24 years since consols, or consolidated annuities, have borne 3% interest.

Any business man knows that the present rate is $2\frac{1}{2}\%$.

Missouri Compromise is said to have "prohibited slavery north of $36^{\circ} 30'$ north." If this were true, by the Missouri Compromise slavery would have been prohibited in Virginia and Kentucky! The true fact is the Missouri Compromise prohibited slavery west of the Mississippi River and north of $36^{\circ} 30'$ north, with the exception that slavery was to be permitted in Missouri. 802

Labyrinth is defined as "A celebrated structure in ancient Egypt. A maze of difficulties so called from an inextricable series of winding passages constructed by Minos, King of Crete." This is an utter hash of facts. Curiously enough the word is defined with reasonable correctness in the main vocabulary of this same book.

Lloyds is defined as "Rooms in London resorted to by bankers and brokers." Here again every business man knows that Lloyds is a concern whose main business is marine insurance. 803

In the "Table of Foreign words, Phrases, Proverbs, Quotations and Colloquial Expressions" the French phrases are printed without the accents, which are an essential part of French spelling.

Illustrations are *a bas*, in which the "a" should have a grave accent.

Charge d'affaires, where the "e" of "charge" should have, but has not, an acute accent. 804

Entree, in which the first "e" should have an acute accent.

Fete champetre, which should be written "fête champêtre."

In this table one notices the phrase "*ma fois*" defined as "upon faith." Here the author got the wrong word, "fois" being the word for

805

Charles P. Crossman—Direct.

"time," as deux fois, two times. The word wanted here is "foi."

Felo de se, is marked French. Any one knowing any French would know at sight that this is not and could not be French.

Bon soir is marked Latin.

Sartor Resartus is defined as the "cobbler mended." This is a sheer blunder undoubtedly due to the author's mistaking the Latin word

"sutor," cobbler, for "sartor," tailor.

In the table of "Familiar Allusions," we find *Black Friday* given as September 26, 1869. Neglecting the fact that this is only one of the Black Fridays, one may well object that September 26, 1869, was not a Friday but a Sunday; the date desired being September 24.

(Signature waived.)

807

(NO CROSS-EXAMINATION.)

DEPOSITION CLOSED.

CHARLES P. CROSSMAN, a witness called on behalf of the complainant, having been first duly cautioned and sworn, testified as follows:

808 DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation? A. Charles P. Crossman; residence, 15 Amherst Street, Springfield, Mass.; occupation, I am a member of the firm of Morgan, Crossman & Company, who are manufacturers of rubber stamps and stamp goods; age, fifty-three.

Q. 2. Have you been acquainted more or less with Webster's dictionaries in times past? A. Yes, sir.

Q. 3. For about how long have you known of Webster's dictionaries? A. Ever since I was old enough to know about any dictionary.

Q. 4. During this period what has been your understanding of the reputation and standing of Webster's Dictionary as a work of reference? A. My understanding is that it was a standard publication, it was the standard dictionary of the country. If I recall it was advertised as used 810 by the United States Government.

Q. 5. That was many years ago? A. Yes, when I was a young man.

Q. 6. In the fall of 1911 did you have occasion to purchase a dictionary from the Springfield Union, a newspaper of this city? A. I did get one.

Q. 7. What was the name of the dictionary which you purchased from the Springfield Union? A. I did not look at it carefully enough 811 to be able to state the exact name.

Q. 8. Give the name as nearly as you can recollect it? A. I merely noticed it was a Webster's dictionary.

Q. 9. What book did you think you were getting and what book did you intend to get when you bought this book from the Springfield Union? A. I presumed I was getting one of the Merriam publications, Webster's Dictionary.

Q. 10. What made you think that? A. Because 812 it is a local publication; you would naturally expect that a local paper offering them would offer a local publication in preference to any other.

Q. 11. What made you think it was a local publication? A. Because it was offered by a local newspaper.

Q. 12. Have you known of the book called "Webster's International Dictionary"? A. Yes.

Q. 13. What connection did you think there was between this book which you bought from the

813

Charles P. Crossman—Direct.

Springfield Union and Webster's International Dictionary, previous to your obtaining it or at the time? A. I supposed they were published by the same party.

Q. 14. What made you think that? A. Because the name of "Webster" was associated with both.

Q. 15. At that time did you know that any concerns other than the Merriams were publishing dictionaries under the name of Webster's Dictionary? A. No.

Q. 16. Have you a copy of any Webster's dictionary published by the Merriam company? A. Yes.

Q. 17. What book is that? A. Webster's International Dictionary.

Q. 18. Upon what book is your good opinion of Webster's dictionaries principally based? A. It is based on the one I had, Webster's International Dictionary.

815

Q. 19. You have used that book with satisfaction to yourself for how many years? A. Might be eight or ten years, I am not at all sure when I bought the book—I am speaking of Webster's International Dictionary which I have at home.

Q. 20. Did you see this book which you bought from the Springfield Union advertised? A. I think so.

Q. 21. And that advertisement was what led you to purchase it? A. It may have been.

816

Q. 22. If the book advertised and sold by the Springfield Union had not been called Webster's Dictionary, would you have bought it? A. No.

Q. 23. Why not? A. Webster has always been associated in my mind in connection with a dictionary; I never had any particular interest in any other.

Q. 24. Suppose the book had been called Worcester's Dictionary, how would that have affected

you? A. I don't think it would have attracted my attention.

Q. 25. Why not? A. The reason would be because I was acquainted with "Webster" and not with "Worcester."

Q. 26. I presume you are not an expert on dictionaries? A. No; I am willing to make that confession.

Q. 27. Did the low price at which the Springfield Union offered this book impress you in any way? A. Possibly the price and the name perhaps induced me to buy it. 818

Q. 28. How did you explain to yourself the extremely low price at which the newspaper offered to sell this book? A. I did not explain it.

Q. 29. Did anything occur to you as to any trade arrangement having been made between the Springfield Union and the Merriam Company in regard to this dictionary? A. I presumed that they had made some arrangement with the Merriam people to offer it at the price they did, at what seemed to be a low price. 819

Q. 30. You are the same Charles P. Crossman who previously made an affidavit in this case on behalf of the complainant G. & C. Merriam Company? A. Yes.

Q. 31. And that affidavit was verified on the 27th day of December, 1911? A. I think that was the date.

Q. 32. About how long have you known the Merriams as the publishers of Webster's dictionaries? A. I should think since about 1877. 820

Q. 33. Did you ever hear of a book called the Crown Dictionary previous to buying this one? A. No, I have no recollection of it.

Q. 34. I show you a dictionary entitled the Crown Dictionary marked in this case "Complainant's Exhibit A, referred to by H. W. Baker,"

821

Charles P. Crossman—Direct.

and ask you if you ever saw that book before?

A. I don't think so.

Q. 35. When you bought this from the Springfield Union did you intend to buy the dictionary entitled the Crown Dictionary which has been shown you? A. No.

Q. 36. Did you know that you were in fact buying the Crown Dictionary which has been shown
822 you? A. No.

Q. 37. If this dictionary advertised and sold by the Springfield Union had been advertised and sold under the name of the Crown Dictionary, would you have been attracted to it and would you have bought it? A. I don't think so.

(Signature waived.)

(NO CROSS-EXAMINATION.)

823

DEPOSITION CLOSED.

MR. HALE: The complainant now offers in evidence the books compared by H. W. Baker and referred to by him in his testimony and which were identified by him, and the same are marked respectively, "Complainant's Exhibit A, referred to by H. W. Baker"; the next one, "Complainant's Exhibit B, referred to by H. W. Baker"; and "Complainant's Exhibit C, referred to by H. W. Baker"; said exhibits being respectively the
824 Crown Dictionary, the Webster's New Standard Dictionary and the Webster's New Century Dictionary.

IRVING S. PULCIFER, a witness called on behalf of the complainant, having been first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please give your name, age, residence and occupation? A. Irving S. Pulcifer; 21 Blake Hill, Springfield, Mass., age, forty-two; occupation, assistant treasurer of the Springfield Safe Deposit & Trust Company.

826

Q. 2. Are you also a member of the school board of the city of Springfield? A. Yes, sir.

Q. 3. How long have you been a member of the school board? A. A little over two years.

Q. 4. In times past have you been more or less familiar with Webster's dictionaries? A. I have.

Q. 5. Approximately how long? A. I have owned one, the International, for fifteen years or ten years. I have owned the old Webster's International for ten years, may be fifteen. I got it soon after it came out.

827

Q. 6. What has been your understanding of the reputation and authority of Webster's Dictionary as a work of reference during the period you have known of it? A. I have considered it a standard, by that I mean of course standard authority.

Q. 7. Are the Webster dictionaries used in the public schools of Springfield? A. They are.

Q. 8. How long have they been used there if you know? A. I don't know, but certainly during all my school life they were in use.

828

Q. 9. Were you educated in the schools at Springfield? A. I was, yes, sir.,

Q. 10. And the Webster dictionaries were used in the schools at that time and are now used? A. I know that they have been used for thirty-two years.

Q. 11. In the fall of 1911 did you have occasion to purchase a dictionary from the Springfield Union, a newspaper of this city? A. Not personally I didn't; I authorized the purchase of one.

Q. 12. Whom did you direct to purchase the dictionary for you? A. One of the clerks in the bank.

Q. 13. How did you come to make this purchase? A. By reason of the advertisement that appeared in the Springfield Union.

Q. 14. What was there about that advertisement which attracted you to make the purchase?

A. The fact that a Webster's dictionary was selling for so small a price.

Q. 15. What Webster's Dictionary did you think was being advertised and sold by the Springfield Union? A. The only Webster I ever knew about; I assumed that it was a Merriam publication.

Q. 16. What was there about the advertisement that caused you to assume that it was a Merriam publication? A. The word "Webster."

Q. 17. I show you a dictionary entitled "Webster's New Standard Dictionary" and ask you if that is the identical dictionary which you purchased under the circumstances related? A. It certainly is.

MR. HALE: The dictionary identified by the witness is offered in evidence and marked "Complainant's Exhibit—Pulcifer's Dictionary.

Q. 18. Did you examine this book at or before the time you bought it? A. I did not.

Q. 19. Upon what did you rely as an assurance that it was a dictionary worth buying? A. The word "Webster."

Q. 20. How did that name convey such assurance to your mind? A. Simply because I had known that the Webster's Dictionary was accepted as standard authority, in these parts at least, practically all my life.

Q. 21. At the time you bought this book did you know that there were any other persons than the Merriams who published dictionaries under

Irving S. Pulcifer—Direct.

833

the name or title of "Webster's Dictionary"?

A. I did not.

Q. 22. About how long have you known the Merriams as the publishers of the Webster dictionaries to which you have referred as standard authorities? A. As long as I have known about the dictionary.

Q. 23. Did you ever hear of a dictionary called the Crown Dictionary? A. I did not.

834

Q. 24. I show you a dictionary entitled the "Crown Dictionary," which has been marked in evidence in this case as "Complainant's Exhibit A, referred to by H. W. Baker," and ask you if you intended to buy that book when you purchased the book called "Webster's New Standard Dictionary" from the Springfield Union? A. Most certainly not.

Q. 25. If the Springfield Union had advertised their book under the name of the "Crown Dictionary" instead of under the name "Webster's New Standard Dictionary," would you have bought it? A. I would not.

835

Q. 26. Why not? A. Merely because I desired a dictionary that I could consult as authority and not knowing anything about the standing of the so-called Crown Dictionary I certainly never would have purchased it.

DEPOSITION CLOSED.

Signature waived.

836

NO CROSS-EXAMINATION.

EDWARD KRONVALL, a witness called on behalf of the complainant, having been first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation? A. Edward Kronvall; occupation teller of the Springfield Safe Deposit & Trust Company; twenty-six years old; 42 Sylvan Avenue, Springfield, Mass. .

838

Q. 2. Where did you go to school? A. East Longmeadow, Mass.

Q. 3. Have you been more or less familiar with Webster's dictionaries in times past? A. Yes, I have in the schools of course.

Q. 4. And since have you heard of it? A. Yes. I have heard of it since and seen references to it.

Q. 5. What has been your understanding of the authority and reputation of the Webster's Dictionary to which you have referred? A. I always thought of Webster as being the authority; I suppose there were other dictionaries, but I always thought of Webster as being the highest authority.

839

Q. 6. Did you know the name of the publisher of the Webster dictionaries to which you have referred and which you used at school? A. I cannot say that I did while I was going to school, but since then I knew that G. & C. Merriam Company published the Webster's Dictionary and I supposed they were the only publishers of Webster's Dictionary .

840

Q. 7. In the fall of 1911 did you have occasion to purchase a dictionary from the Springfield Union, a newspaper of this city? A. Yes, sir.

Q. 8. How did you come to make that purchase? A. I saw it advertised in the daily Union, by cutting out six coupons and then with a deposit of a certain amount of money, I would be given a Webster's Dictionary.

Q. 9. You accordingly purchased one on those terms? A. Yes.

Q. 10. What book did you intend to buy and think you did buy when you bought this book from the Springfield Union? A. I intended to buy Webster's Dictionary; I thought that I got a Webster's.

Q. 11. What effect on your mind did the high reputation of the Webster dictionaries which you have known have in making this purchase? A. If it had been some other dictionary that they advertised I shouldn't have made the purchase. 842

Q. 12. Did you ever hear of a dictionary called the Crown Dictionary before this suit? A. Yes, I have.

Q. 13. When and where? A. A few years ago, I cannot tell just how many years, I subscribed for the Christian Herald for my mother, and at that time one of the premiums that the Christian Herald offered was, with an additional payment of fifty cents, a Crown Dictionary; they advertised it as the Crown Dictionary, as I remember it. 843

Q. 14. I show you a dictionary entitled the Crown Dictionary, with the imprint of the Christian Herald, "Complainant's Exhibit A, referred to by H. W. Baker," and ask you if you recognize that as the book referred to? A. Yes, sir, I have one down at the house now.

Q. 15. When you bought this dictionary called Webster's New Standard Dictionary from the Springfield Union did you intend to buy a copy of the Crown Dictionary such as you already have? A. No; I intended to buy a Webster's Dictionary; of course that flowery advertisement led me to think it was a regular \$3.50 or \$4 book. 844

Q. 16. You are the Mr. Edward Kronvall who made an affidavit in this case on behalf of the complainant? A. Yes.

845

Edward Kronvall—Direct.

Q. 17. On the 27th day of December, 1911? A. Yes, sir.

Q. 18. Since making that affidavit have you been interviewed by any one representing either the defendant or the Springfield Union? A. I have by a representative of the Union; I don't recall his name.

Q. 19. What took place on that occasion? A. He offered to refund the purchase money if I was dissatisfied.

Q. 20. What did you do? A. I returned the dictionary and he gave me back the money. I told him the dictionary was of no use to me, that if he was willing to take it back and return me the money I would return the book.

Q. 21. Had you used the book at all before you returned it or attempted to do so? A. Yes.

Q. 22. Did it prove satisfactory in use? A. It did not. I recall that during the McNamara trial in California we were interested to know the exact meaning of certain words; among them being "venire" and "talesmen" and some other word that I don't now recall. I looked for them in this dictionary but could not find them. I was surprised that such words were not to be found in a Webster's Dictionary.

(Signature waived.)

848

NO CROSS-EXAMINATION.

DEPOSITION CLOSED.

(Special Examiner's Certificate, and Notice of taking Deposition, Not Printed by Consent.)

DISTRICT COURT OF THE UNITED
STATES,

849

SOUTHERN DISTRICT OF NEW YORK.

G. & C. MERRIAM COMPANY,
Complainant,

vs.

CUPPLES & LEON COMPANY,
Defendant.Equity
8-161.

850

G. & C. MERRIAM COMPANY,
Complainant.

vs.

SYNDICATE PUBLISHING Co.,
Defendant,Equity
8-162.

851

SPRINGFIELD, MASS., March 28, 1912.

1.30 o'clock, P. M.

APPEARANCES:

The Special Examiner, JOHN F. JENNINGS,
WM. B. HALE, Esq.,

For Complainant.

GEORGE F. BEAN, Esq.,

For both Defendants.

852

Depositions taken on behalf of the complainant for final hearing pursuant to notice annexed, before John F. Jennings, Esq., a Special Examiner of this Court, pursuant to the sixty-seventh rule in equity as amended, at the office of Messrs. G. & C. Merriam Company, in the

853

Kirk N. Washburn—Direct.

city of Springfield, Massachusetts at 1.30 o'clock, P. M.

It is hereby stipulated between the counsel for the respective parties that the depositions of the witnesses to be called shall be taken stenographically by a skillful stenographer, appointed by the Special Examiner, and subsequently transcribed and reduced to typewriting.

854

It is further stipulated that the signatures of each and all witnesses thus examined shall be and hereby are waived.

KIRK N. WASHBURN, recalled on behalf of complainant, having been sworn, testified as follows:

Q. 1. Are you the Kirk N. Washburn, who has been heretofore sworn and examined in this case
855 on behalf of complainant? A. I am.

Q. 2. Will you produce copies of the various editions of Webster Dictionaries, beginning with the first edition in 1806 and continuing down to the present date? A. I do, right here.

856

The complainant offers in evidence the title pages, copyright notices and inscriptions upon the cover of said dictionaries and the same are received in evidence and marked "Complainant's Exhibit, Title Pages, Cover Inscriptions and Copyright Notices of Webster Series."

Q. 3. Do you know about how many volumes there are? A. I do, there are fifty-five volumes, more or less, as I recall it.

Complainant also offers in evidence copies of certain contracts and assignments to Complainant's predecessors as follows:

"Webster Contract of 1853."

Kirk N. Washburn—Direct.

857

"Lippincott Contract 1858."

"Contract and assignment of the University and Pocket Dictionaries."

"Contract and assignment of Webster High School Dictionary."

"Contract and assignment of Webster's Academic Dictionary."

"Delegation of Power to Executor by Heirs."

858

"Contract between Heirs and G. & C. Merriam Company as to Abridged Dictionary."

All bound in a pamphlet and the same is received and marked in evidence, "Complainant's Exhibit, Early Contracts and Assignments."

Complainant offers in evidence certified copies and agreed copies of the record of copyright of the said Webster Dictionaries, produced, beginning with the 1806 edition and continuing down to date, and the same all bound in one pamphlet are received and marked in evidence, "Complainant's Exhibit copyright certificates of Webster Series."

859

Q. 4. Please state somewhat in detail the schools of this country which have adopted the Complainant's Webster Dictionaries, or any of them, as the standard authority for use in such schools and show generally the extent to which Complainant's dictionaries have been used as the standard authority in the schools of this country.

A. In Alabama, we have a state adoption, made September 8th, 1908, for five years by a state text-book commission and this adoption is for exclusive use.

860

In Alaska, Webster Primary Dictionary has been adopted.

In Arizona adoption by the Territorial Board

of Education in July, 1911, for four years, for exclusive use.

In California the official List High School text-books prepared and recommended by the State Board of Education, June, 1911, as provided by law, includes Webster's High School Dictionary and Webster's Academic. No other dictionaries are mentioned.

- 862 In Delaware the official list of text-books issued by authority of State Board of Education, includes Webster's Primary Dictionary, Webster's Common School, Webster's High School, Webster's Academic, and Webster's New International Dictionary. Other dictionaries are mentioned.

- 863 In the District of Columbia, text-books adopted June 5th, 1911, by the Board of Education for three years, from July 1, 1911, include Webster's School Dictionaries, American Book Company, Webster's Collegiate and Webster's New International Dictionary, G. & C. Merriam Company. Worcester School Dictionaries are also mentioned.

In Florida there is a State Adoption from August, 1911, to 1916, exclusive. Books adopted by the Florida Text Book Commission are: Webster's Primary Dictionary, Webster's Common School Dictionary, while Webster's New International Dictionary is recommended as the standard.

- 864 In Indiana, Webster's New International Dictionary, Webster's Collegiate, and Webster's Academic have been placed on the High School library list issued by the State Board of Education, January, 1911. Other dictionaries are mentioned.

In Iowa, Webster's New International Dictionary, Webster Collegiate, and Webster's Academic Dictionary are listed in the catalogue of Library books for School Districts of Iowa, recommended by the State Board of Educational Examiners issued by the Department of Public

Instruction, 1911. No other dictionaries mentioned. County adoptions, mostly of small dictionaries by County Board of Education. Webster in about fifty counties out of ninety-nine, A. B. Company.

In Kansas, in May and June, 1909, the Kansas Text-book Commission officially approved Webster's International Dictionary, Webster's Collegiate Dictionary, Webster's Academic, Webster's High School, Webster's Common School and Webster's Primary Dictionary for use in the Kansas Public Schools, exclusively. 866

In Kentucky, in the Library List issued by the State Superintendent of Public Instruction and the State Board of Education in the fall of 1909, are included Webster's New International Dictionary, and Webster's Collegiate Dictionary. No other dictionaries are mentioned.

In Louisiana, there is State adoption by the State Board of Education, 1909 to 1913, which includes Webster's Primary Dictionary, Webster's Common School, Webster's High School, and Webster's Academic Dictionary. Others are mentioned. 867

In Minnesota, Webster's International Dictionary, old edition, is supplied to the schools by the State Department of Public Instruction in accordance with legislative enactment.

In Mississippi there is State Adoption by the Text-book Commission of Mississippi of the Webster's Primary Dictionaries, five years, 1910 to 1915. Exclusive. 868

In Missouri, the State Library List of 1911, selected by the State Library Board, includes Webster's Academic Dictionary and Webster's New International Dictionary. No other dictionaries are listed. County adoption of text-books by County Text-book Commission for five years, 1908 to 1912, mostly. Webster in about sixty counties.

In Nevada there is State Adoption by the State Text-book Commission of Webster's Common School, Webster's High School and Webster's Academic, four years from September 1, 1911, exclusive.

870 In New Mexico there is territorial adoption by Territorial Board of Education June, 1911 to June, 1915. First eight grades, Webster's Primary Dictionary, Webster's Common School, Webster's High School, Webster's Academic, Webster's Collegiate and Webster's New International Dictionary. Exclusive.

In North Carolina there is State Adoption by the State Board of Education, July 1st, 1911 to 1916, of Webster's Primary Dictionary Webster's Common School, Webster's High School and Webster's Academic Dictionary. Exclusive.

871 In Oklahoma, In 1908, the State Text-book Commission of Oklahoma adopted for exclusive use in the schools of the state for five years, 1908 to 1913, Webster's International Dictionary, Webster's Primary, Webster's Common School, Webster's High School, and Webster's Academic Dictionary. In July, 1910, Mr. Jasper Sipes of Oklahoma City contracted with the State Text-book Commission for supplying the New International at \$10.80 per copy on the same terms and conditions as called for by the contract on the old International, August 1, 1908. We thus have
872 permission to sell the New International in lieu of the old where people of the state prefer to buy this book.

In South Carolina, the state list of library books, 1909 to 1914, adopted by the State Board of Education, gives Webster's Collegiate and Webster's International Dictionary. No other dictionaries are mentioned. State adoption, September, 1911 to June, 1917 (State Board of Education), Webster's Primary Dictionary, Web-

ster's Common School, Webster's High School and Webster's Academic Dictionary. Exclusive.

In South Dakota by legislative enactment it has become obligatory for each school and each school room, containing one or more of the grades three to eight inclusive, and each ungraded district school, to be supplied with a dictionary; said dictionary to be the one specifically approved by the County Superintendent. In thirty-nine out of the sixty-six counties, Webster's New International Dictionary has been thus approved, and in fifteen other counties this has been practically done. We know of no counties where any other dictionary has been approved. 874

In Tennessee, Webster's New International Dictionary is on the Tennessee State Library List for school libraries, issued by the State Board of Education. Other dictionaries are also mentioned. The list was received September 9th, 1911. 875.

In Utah, in pursuance of an act providing for the creation of a State Board of Education and providing for the adoption of a series of text-books for uniform use in the schools of Utah, except in cities of the first and second class, approved March 11, 1897, the State Text-book Convention duly called May 6, 1908, adopted among others the following text-books:

- Webster's International Dictionary
 - Webster's Collegiate Dictionary.
 - Webster's Academic Dictionary.
 - Webster's High School Dictionary.
 - Webster's Common School Dictionary.
 - Webster's Primary Dictionary.
- 876

No other dictionaries adopted. The cities referred to, of the first and second class, are also using our Dictionaries.

In Virginia the state list of books for school

libraries, issued by the Department of Public Instruction, 1911, includes Webster's Academic Dictionary, and no others. State text book adoption, State Board of Education, 1910 to 1914; High Schools, Webster's Academic and Webster's High School, exclusive. August, 1908 to 1912, for the Primary and Grammar Schools, Webster's Common School Dictionary, exclusive.

- 878 In Washington, three counties in the state have adopted Webster's School Dictionaries, but the A. B. Company are unable to give the names.

In Wisconsin, Webster's International Dictionary, old edition, is supplied to the schools by the state department of public instruction in accordance with legislative enactment. The International and the Academic are included in the list of books for free high school libraries, issued by the State Superintendent in 1909. No other English dictionaries are mentioned.

- 879 The following counties in West Virginia adopted Webster's Dictionaries in 1906:

A. B. Co.

Boone	Clay	Doddridge
Fayette	Hampshire	Hardy
Kenawha	Lincoln	Logan
Jefferson	Marion	Mason
Mercer	Mineral	Mingo.
Monroe	Morgan	Ohio
880 Pendleton	Pleasants	Pocahontas
Putnam	Raleigh	Randolph
Ritchie	Roane	Summers
Taylor	Tucker	Tyler
Upshur	Wayne	Wetzel
Wirt	Wood	Wyoming

The total number being thirty-six. The adoption expired this year when under the new law the State itself will adopt. (State School Book Commission). Exclusive adoption for five years, July 1, 1912 to 1917.

The following counties in Arkansas adopted Webster's Dictionaries (County School Board), six-year contracts:

In Madison, 1906, The Webster's Primary, Common School and High School; In Mississippi, 1908, the Common School and Academy. In Monroe, 1908, the Primary, Common School and Academy.

Q. 5. You have specified in various cases certain 882
dates at which you say complainant's books were adopted for school use. What was the fact and practice as to the use of the complainant's Webster Dictionaries in such schools prior to date of such contract? A. In substantially all of them, the books have been in use for many years previous to the adoption and in many of them it is simply a re-adoption of an old list.

Q. 6. Do you know of any schools in this country where any so-called Webster Dictionaries, 883.
published by persons other than complainant, have been sanctioned and adopted for school use? If so, please answer fully, stating where and to what extent. A. Some two or three years ago, the City of Chicago sanctioned the use of the so-called Laird & Lee dictionaries, but it was not an exclusive adoption, the genuine Webster Dictionaries being used alongside these, and still purchased by the Board and the pupils.

Q. 7. By "genuine" Webster Dictionaries you mean the Webster Dictionary published by the 884
complainant? A. Yes, or the American Book Company, who are publishing under an arrangement with G. & C. Merriam Company.

Q. 7. It is a fact, is it not, that the various school Webster Dictionaries of the complainant are handled and sold through the American Book Company? A. It is.

Q. 9. Please state the general nature of that

arrangement. A. Why we make all the books and plates from which the books are printed and they issue and sell the books under a royalty arrangement with us.

Q. 10. Who owns the copyrights of these books, so handled? A. G. & C. Merriam Company.

Q. 11. Who prepares and directs the preparation of the literary matter which is copyrighted in these books? A. G. & C. Merriam Company.

Q. 12. And the name G. & C. Merriam Company appears in the publisher's imprint along with that of the American Book Company, is that correct? A. It does.

Q. 13. Is there any other place than the schools of Chicago, that you know of, in which the so-called Webster Dictionaries of other publishers have been adopted or sanctioned for school use? A. There are a number of places in the middle West where these books have been used, but in every case where we have known of this being done the books have been discontinued for the genuine Webster.

Q. 14. About how many of such cases have you ever known of? A. Well, there have been a great many, fifty or sixty perhaps.

Q. 15. Who is the publisher of the dictionary entitled "Webster's Universal Dictionary"? A. It is sold by the Saalfield Publishing Company, as I understand it.

Q. 16. That is one of the dictionaries, originally published by one Ogilvie, is it not? A. It is.

Q. 17. That dictionary was involved in the litigation in the First Circuit at Boston and also litigation in the Sixth Circuit in Ohio? A. Yes, sir.

Q. 18. Have you recently seen advertisements of a thin paper edition of that book? A. I have.

Q. 19. Within what period have such advertise-

ments been published? A. Why, I should think within four or five months, perhaps less.

Q. 20. Has the book been actually issued in thin paper form? A. It has.

Q. 21. Have you seen a copy of it? A. I have.

Q. 22. This thin paper edition and the advertisements thereof have all been issued since the injunction in the First Circuit against Ogilvie? Is that correct? A. Yes.

890

Q. 23. Have you ever seen a copy of the thin paper edition or any advertisement thereof, which did not contain the words "This dictionary is not published by the original publishers of the Webster Dictionary or by their successors"? A. I have not.

Q. 24. Have you any reason to suppose, and if so, state it, whether or not persons have been deceived or misled by the advertisements of this thin paper edition into thinking it was a Webster Dictionary of the Merriam Company, notwithstanding the use of the words quoted?

891

MR. BEAN: I object, because the question refers to a dictionary not in issue in this case and it does not appear in what manner the words quoted have been employed either on the title page of the dictionary or the advertisements thereof, and because the answer of the witness, if it should state any cases of alleged or supposed deception, must necessarily be in the nature of hearsay testimony.

892

A. I have, from letters that we have received from various parties in the regular course of business.

Q. 25. How many such letters have you received and have you here present any?

MR. BEAN: Objected to for the same reason.

893

Kirk N. Washburn—Direct.

A. Why seventy-five, I should think.

Q. 26. Please produce and read into the record any letters which you have received in the regular course of mail, which consisted of orders or inquiries for this thin paper edition of the so-called Webster Universal Dictionary.

894

MR. BEAN: Objected to because the letters called for, as appears by the question, relate to the thin paper edition of a dictionary published by another party than the defendant in this action, and a dictionary in no way related to the dictionary at issue in this case.

895

MR. HALE: The letters referred to a dictionary published and sold as a Webster Dictionary and the letters when produced, it is claimed, will show deception and confusion in the public mind by reason of the use of the name Webster.

I will add to my question a request that you state relevant facts as to the relations between the writers of said letters and your company past or present.

A. The first letter is as follows:

CUNNINGHAM, CURTISS & WELCH,

SAN FRANCISCO, Jan. 11, 1912.

896

MESSRS. G. & C. MERRIAM Co.,
Springfield, Mass.

Gentlemen:

We have been informed that there has been published a new edition of the Webster's International, bound in Limp Leather and printed on thin paper. As yet, we have received no word from you in regard to it, and we will ask that

Kirk N. Washburn—Direct.

897

you kindly send us full information, and greatly oblige.

Very truly yours,

CUNNINGHAM, CURTISS & WELCH.

This firm has been closely associated with us in business for many years handling our books as customers.

898

ST. PAUL BOOK & STATIONERY Co.

January 16, 1912.

MR. H. W. BAKER,

Care of G. & C. Merriam Co.,

Springfield, Mass.

Dear Sir:

We understand that your company is advertising quite extensively the New International Dictionary in a thin paper edition. We can find no record of ever having received any circulars describing this book, if it is new. Please give us what information you can by return mail, and advise us whether this is sold through the trade.

899

Yours truly,

ST. PAUL BOOK & STATIONERY Co.

This concern has also been a customer of ours for many years.

900

SMITH & BUTTERFIELD Co.

EVANSVILLE, IND., 1/16/12.

G. & C. MERRIAM Co.,

Springfield, Mass.

Gentlemen:

Our attention has been called to an ad. in

901

Kirk N. Washburn—Direct.

Literary Digest of an India Paper Ed. of the International, pub. by Riverside Pub. Co., Chicago. Is this edition genuine? We have not seen the ad.

S. & B. Co.

This concern has also been a long time customer of ours.

902

I have here a letter from William H. Andre, Denver, Colo., under date of January 4th, 1912. In a paragraph at the close of this letter, which letter deals with other things, Mr. Andre, who is our agent in Denver says:

“What I am interested in now is the thin paper Dict. that you are advertising. If it will go only through the Subscription Dept., it will be Fine.”

903

GIMBEL BROTHERS.

PHILADELPHIA, Jan. 2, 1912.

G. & C. MERRIAM Co.,
Springfield, Mass.

Dear Sirs:

Kindly advise us when the Webster's New Univ. Dict. on thin paper will be ready for delivery, also bindings and prices—with discounts.

904

Yours truly,

JOS. SCAMMEL.

Mr. Scammel is the Manager of their book department, and Gimbel Brothers are customers of ours.

Kirk N. Washburn—Direct.

905

“JETT BOOK & STATIONERY Co.,

ST. LOUIS, Mo., Feb. 6, 1912.

THE G. & C. MERRIAM Co.,

Springfield, Mass.

Gentlemen:

We have received some inquiries relative to the new edition of the international dictionary, which you are advertising printed on India paper. We will appreciate it if you will send us full information relative to the same. 906

One question raised is whether this represents a new revision of the dictionary, or whether it is simply one that has been published for several years, now put forth on India Paper. We would also like to know if the dictionary comes in one volume form only, or in two volumes.

Please cover these points particularly, and send other information, including the price to dealers. 907

Very truly yours,

JETT BOOK & STATIONARY Co.”

These people are not customers of ours.

“JACQUIN & COMPANY

PEORIA, ILL., February 20, 1912.

G. & C. MERRIAM Co.,

Springfield, Mass.

908

Gentlemen:

One of our customers has just advised us that he has seen one of your large sized Dictionaries printed on India Paper. We told him the largest Dictionary that we knew of printed on India Paper was your Collegiate. He, however, stated that it was larger than this, hence we are writing you for this information.

909

Kirk N. Washburn—Direct.

Kindly let us know what you make in the line of India Paper Dictionaries and quote us prices on the same, and greatly oblige.

Very truly yours,

JACQUIN & COMPANY."

Jacquin & Company are customers of ours.

910

"BOGGS & BUHL

PITTSBURGH, PA., February 6, 1912.

Mess. G. & C. MERRIAM Co.,

Springfield, Mass.

Dear Sirs—

911 We have an inquiry for your Universal Webster on India Paper. Inasmuch as we know that this is a subscription edition, we should like to be able to impart all the necessary information to our patrons, and to that end would kindly ask you to forward us a prospectus, showing type, size of page, price, etc., when we will refer the order to your nearest agent.

Thanking you in advance for this, we are,

Yours very truly,

BOGGS & BUHL."

They are customers of ours.

912

"THE EDWARD P. JUDD COMPANY

NEW HAVEN. CONN., Feb. 20, 1912.

THE G. & C. MERRIAM Co.,

Springfield, Mass.

Gentlemen:

We have a customer who insists that she has seen an advertisement of a special edition of the New International Dictionary printed on India

Kirk N. Washburn—Direct.

913

paper, making a very thin and light volume like the cyclopedias lately issued in India paper. We have told her that we have never heard of the "International" being gotten up in such a form, but we agreed to verify our statement by appealing to you. She said the cost of the volume was about \$15.00.

We should be very glad to hear from you in regard to this.

914

Yours truly,

THE EDWARD P. JUDD CO.

Edward P. Judd Company are long time customers of ours.

"CHICAGO THEOLOGICAL SEMINARY

CHICAGO, 2-16-1912.

G. & C. MERRIAM & Co.,
Springfield, Mass.

915

Gentlemen:

I have seen in the Advance your adv. of the new Dictionary on India paper. You have given terms for time payment; will you be so good as to quote cash price on delivery for one or two copies, India paper edition? I am pleased to learn that the work is offered in a single thin volume. All my life it has been 'my food day and night.'

Very truly yours,

916

C. A. BECKWITH."

"THE BAKER UNDERWEAR COMPANY.

PEEKSKILL, N. Y., February 27, '12.

MERRIAM PUBLISHING COMPANY,
Springfield, Mass.

GENTLEMEN:

We have been informed that you are putting

917

Kirk N. Washburn—Direct.

out for subscription a Webster's Dictionary printed on India paper. If this is so will you please advise us how we can secure a copy, and at what price, and oblige,

Very truly yours,

THE BAKER UNDERWEAR CO."

918

"G. & C. MERRIAM Co.,

Springfield, Mass.

DEAR SIRs:

In reply to your letter of recent date, I am glad to tell you I have since I wrote you purchased a Collegiate International and think it just right for desk use. Although if when I got it I had known you had the India paper edition of the unabridged I rather think I should have chosen it. However, I dare say I shall get it yet at some

919 future date.

Respectfully yours,

FAYE E. PATTERSON,
R. F. D. 1 Shiloh,
Ohio."

"CHARLES F. FISCHER LUMBER CO.

NEW YORK, 11 March, 1912.

MESSRS. G. & C. MERRIAM COMPANY,

920

Springfield, Mass.

DEAR SIRs:

Am I rightly informed that you are about to issue the complete text of the large Webster on India paper? I should be glad to have you inform me of the price and the probable date of issue. I should find a complete Webster in this more portable form of great utility.

Truly yours,

Wm. King Fischer."

Kirk N. Washburn—Direct.

921

“THE UNIVERSITY CO-OPERATIVE SOCIETY.

AUSTIN, TEXAS, 2/17/12.

G. & C. MERRIAM,

DEAR SIRs:

Kindly send us by mail prices on the New International in the India Thin Paper edition.

Very truly yours,

922

THE UNIVERSITY CO-OPERATIVE SOCIETY.
Per Manager.”

“LESTER BOOK AND STATIONERY CO.

ATLANTA, GEORGIA, Jan. 11, 1912.

J. & C. MERRIAM Co.,

Springfield, Mass.

GENTLEMEN:

923

Please advise if you can furnish, if so, quote price on—

Webster's Universal Dictionary, India Paper edition, as per enclosed copy.

Yours truly,

By O. L. JERNIGAN.”

The “Enclosed copy” is a full page advertisement taken from a magazine for February, 1912, of a dictionary issued by and under the name of 924 the Riverside Publishing Company, Marquette Building, Chicago. This advertisement contains the following words, “This dictionary is not published by the original publishers of the Webster Dictionary or by their successors, but is an entirely new work.”

“D. A. CALLAHAN.

SALT LAKE CITY, UTAH, 1/4/12.

592

Kirk N. Washburn—Direct.

THE MERRIAM Co.,
Springfield, Mass.

GENTLEMEN:

We have had some calls for Webster Dictionary in India paper. Can you tell us the difference between your New Dict. and the Webster Universal Dict. as advertised in Lit. Digest so loudly. Is it
926 your book as inferred?

Yours,

D. A. CALLAHAN."

D. A. Callahan is a customer of ours.

"REV. E. C. SWITZER.

PHILIPPI, W. VA., Mch. 18, 1912.

G. & C. MERRIAM Co.,
927 Springfield, Mass.

DEAR SIRs:

As per my request I have received literature giving prices &c., of the International dictionary. I think I saw in the Literary Digest an ad. giving prices of a get up in "India" paper. In the description you send I find nothing of that kind. The ad. above referred to gave price \$14.00 and weight four pounds. What about it? I have the
928 first edition of Funk & Wagnalls Standard, two volumes in full morocco good condition. Would you take it in exchange? I am in close touch with two church schools in this state; what could you give especially with a view to working them in these schools?

Very truly yours,

E. C. SWITZER."

In a letter from The Martin & Hoyt Co., At-

Kirk N. Washburn—Cross.

929

lanta, Ga., dated January 5, 1912, in the last paragraph they say:

“We have also received a communication from one of our subscribers stating that he had been informed that Webster’s New International Dictionary was published in India paper. We have written him that this is not the case, unless he refers to the collegiate edition.”

930

“HUDSON RIVER STATE HOSPITAL

POUGHKEEPSIE, N. Y., Jan. 2, 1912.

Gentlemen:

I should like to know if the attached advertisement refers to the latest edition of Webster’s or if it is merely a reprint from old plates.

Very truly yours,

CHAS. W. PILGRIM.” 931

The “attached” refers to a clipping from an advertisement of the Webster’s Universal Dictionary, thin paper edition, which gives the name of the Riverside Publishing Company, Marquette Building, Chicago, as the publishers.

Q. 27. Are the letters which you have written into the record fair specimens of other communications to which you have referred bearing on this subject? A. They are.

Q. 28. Did the complainant or any one on its behalf have any prior communication with the writers of any of these letters with reference to the subject matter thereof? A. They did not. 932

Q. 29. These letters then were merely letters received in the ordinary course of mail and the ordinary course of business? A. They were.

CROSS-EXAMINATION by Mr. Bean:

x Q. 1. So far as you could observe, Mr. Wash-

burn, from the letters which you have read into the record, have the writers of any of them had their attention called to the dictionary published by the Syndicate Publishing Company which is in issue in this case? A. I am not aware that they had.

x Q. 2. In most cases the letters designated refer, do they not, to a dictionary published by another publisher or other publishers than the Syndicate Publishing Company or the Cupples & Lean Company? A. They refer to the dictionary published by the G. & C. Merriam Company and the letters themselves do not refer to any other publishers.

x Q. 3. Do they not in most cases refer to a thin paper edition published by the Riverside Publishing Company, or bearing such imprint? A. They refer sometimes to our dictionary specifically as "Webster's International" or "Webster's New International" or to a dictionary by another name which the writers seem to think are published or may be published by G. & C. Merriam Company.

x Q. 4. And in most cases they refer, do they not, to a thin paper edition? A. They do.

x Q. 5. And the only thin paper edition of an unabridged dictionary, bearing the name "Webster" which has been published, so far as you know, is the thin paper edition published by or bearing the imprint of the Riverside Publishing Company, is it not? A. Yes.

x Q. 6. It is your opinion, is it not, that such confusion, if any, as indicated by these letters, has risen from the fact that the name "Webster" was in the title of a dictionary not published by you? A. Yes.

x Q. 7. Did you see in the "Literary Digest" an advertisement of a thin paper edition describing it as published by the Riverside Publishing Company? A. I think so.

x Q. 8. So far as you know then, there has been no advertisement of a thin paper edition in the "Literary Digest" which has not specifically stated that it is published in Chicago by the Riverside Publishing Company? A. No, sir.

x Q. 9. You have said that some of the writers of these letters are customers of yours. Do you know whether or not some, or all of them, do not carry Webster Dictionaries published by other publishers than yourselves? A. I do not know. 938

x Q. 10. One of the writers, I believe Faye Patterson, said that she had purchased recently from you a "Collegiate International." That would be an impossibility would it not? There is no dictionary, so far as you know, called the "Collegiate International"? A. No, sir. Our Collegiate dictionary, however, is abridged from the International and so states on the title page.

x Q. 11. But not in the title of the dictionary? 939.
A. No.

x Q. 12. Has it not been your experience that the public generally are apt to be careless or unobservant as to the exact title even of your own dictionary? A. I think the public generally on seeing the name "Webster" attached to a dictionary think it is one of our books. They are not always, although I think generally, specific in the name when they communicate with us.

x Q. 13. In your answers to some direct questions as to the adoption of your dictionary you speak of instances where there have been adoption of other dictionaries together with the adoption of the "genuine" Webster Dictionaries. By "genuine" you mean Merriam's Webster Dictionary? A. I do. 940

x Q. 14. That is to say, your test of the genuineness of the Webster Dictionary is whether it is published by the Merriam Company. A. Wheth-

941

Kirk N. Washburn—Re-direct.

er it is published directly by us or under an arrangement with us, yes.

x Q. 15. That is to say, to be a genuine Webster Dictionary it must be published by the Merriam Company or the American Book Company. A. Up to this date, yes.

942

x Q. 16. "Genuineness" then to your mind has no reference to the question whether it is in fact a revision of the work of Noah Webster or of an earlier edition of your dictionary in which the copyright has expired? A. The "genuine" Webster dictionary is in my mind one of the recent dictionaries published in the regular succession by G. & C. Merriam Company.

943

x Q. 17. If a dictionary is in fact a revision or abridgement of the 1847 edition of Webster Dictionary, for instance, and is a recent revision, it is not genuine if not published by the Merriam Company? A. No.

RE-DIRECT:

Q. 1 (By Mr. Hale): I show you seven sheets consisting of the first page of the following publications respectively:

944

- "The Tidings."
- "The Sycamore Sentinel."
- "The Elliott Messenger."
- "The Pastor's Call."
- "The Church Invitation."
- "Our Master."
- "St. John's Message."

Each of which pages contain an advertisement of "Webster's New Illustrated Dictionary" and edited by the New York Church Publishing Company of 225 West 39th Street, New York City, and ask you if you cut these advertisements from the publications named, and if so, please state the date of

Kirk N. Washburn—Re-direct.

945

the publication. A. I did cut them from the publications in question, and it was the March issue of said publications.

The advertisements identified by the witness are marked for identification respectively "Washburn's Exhibit One for Identification" and so on up to "Seven for Identification."

Deposition by Mr. Washburn closed.

946

(Signature Waived.)

(Notice of taking deposition, and Special Examiner's certificate, not printed, by consent.)

947

948

949

DISTRICT COURT OF THE UNITED STATES.

SOUTHERN DISTRICT OF NEW YORK.

	G. & C. MERRIAM COMPANY, Complainant,	}	Equity 8-161.
950	VS.		
	COUPLES & LEON COMPANY, Defendant.	}	Equity 8-162.
	G. & C. MERRIAM COMPANY, Complainant,		
	VS.	}	Equity 8-162.
951	SYNDICATE PUBLISHING COMPANY, Defendant.		

NEW YORK, February 14th, 1912.

Testimony taken on behalf of the complainant, for final hearing, pursuant to notice annexed, before JOHN A. SHIELDS, Esq., a Standing Examiner of this Court, pursuant to the 67th Rule in Equity, as amended, at the offices of Messrs. Judson & Hale, 40 Wall Street, Borough Manhattan, New York, at 2 p. m.

APPEARANCES:

The Examiner.
WILLIAM B. HALE, Esq.,
For Complainant.

John L. Gifford—Direct.

953

GEORGE F. BEAN, Esq.,

Of Counsel for Defendant, Syndicate Publishing Co.

LAUREN CARROLL, Esq.,

Of Counsel for Defendant, Cupples & Leon Company.

JOHN L. GIFFORD, a witness called on behalf of 954
the complainant, having been first duly cautioned
and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Mr. Gifford, you reside in Newark, N. J.?

A. I do.

Q. 2. What is your occupation? A. My occupation is general State agent, State of New Jersey for G. & C. Merriam Company.

Q. How long have you been connected with the Merriam Company in a business way? A. 955
A little over two years.

Q. 4. And before that time what was your occupation? A. I was selling agent for Funk & Wagnalls, publishers of the Standard Dictionary, New York City.

Q. 5. How long approximately? A. As near as I can recall about seven years.

Q. 6. Are you familiar with the book known as Webster's Dictionary? A. I consider myself fairly familiar with this book. 956.

Q. 7. For how long have you been more or less familiar with this book? A. As an agent for a little over two years; I have known the book in a personal way for thirty years.

Q. 8. And you have known it as a competitor of Funk & Wagnalls' Standard Dictionary for seven years, is that correct? A. That is correct.

Q. 9. During all this period, who has been the publisher of the Webster's dictionary to which

you have reference? A. From the beginning, of thirty years, I have known it as published by G. & C. Merriam Company.

Q. 10. Has your business brought you in direct contact with the purchasers and users of dictionaries? A. It most decidedly has.

Q. 11. From your experience as a salesman first of the Funk & Wagnal's Standard Dictionary and later as a representative selling Webster's Dictionary are you able to say what book is meant by the term "Webster's Dictionary," when used by the average purchaser or member of the public; if so, please state the matter fully?

A. My experience as both agent in selling the Webster's Dictionary and as the competitor in selling the Funk & Wagnalls' Standard Dictionary, I have been led to believe that the general public has believed the Webster's Dictionary placed above whatever following title have understood that the Webster's Dictionary meant the genuine and original dictionary, such as has been used by the Public Schools and professional and literary people, whether they knew the publishers, G. & C. Merriam Company or not. My recent experience during the last two years as the general agent for G. & C. Merriam has made this opinion more sharp than previous. I have come in contact with many specific cases where the purchasers of dictionaries under the title of "Webster's" followed by numerous descriptive titles have declared to me that they were purchasing the authentic dictionary as used in Public Schools.

Q. 12. Can you state some specific instances which have come to your attention in which the purchaser of a dictionary bearing the name "Webster's" in the title purchased the same thinking he was obtaining a copy of the genuine Webster's Dictionary as published by G. & C.

Merriam Company. If so, please state such instances in detail. A. I know of a case of Principal of Private School in Newark, New Jersey who had purchased a Webster's dictionary. I called upon this principal for the purpose of selling her Webster's dictionary published by G. & C. Merriam Company and the principal pointed to the Webster's which she had bought a short time before with considerable pride—saying that she had the Webster's dictionary already. I asked her to examine the title and the publishers and when she found that it was not the dictionary that was in general use by schools, she expressed her dissatisfaction, she said, "She supposed she had bought the genuine dictionary as used by schools and colleges." 962

Q. 13. What was the title and publisher of the book which she had bought under the impression above stated? A. The title of this book was either "Webster's Universal Dictionary" or "Webster's Imperial Dictionary." Published by one Saalfeld. 963.

MR. BEAN: The answer is objected to as irrelevant and immaterial.

MR. CARROLL: I object to all the testimony given relative to the conversation with the principal of the school as incompetent, irrelevant and immaterial.

Q. 14. Do you recall the name of this teacher? A. I do not. 964

Q. 15. When did this transaction occur? A. About a year and a half ago.

Q. 16. Can you state any other similar experiences that you have had? A. I recall a case of a minister in Drew Theological Seminary Madison, New Jersey, who bought a Webster's dictionary—

965

John L. Gifford—Direct.

MR. CARROLL: I object generally to any testimony here about any alleged confusion being caused by the sale of any other dictionary than that published by either of the defendants.

966

MR. HALE: The testimony is offered for the purpose of showing the meaning of the name "Webster" and its identification with the books of the complainant.

MR. CARROLL: I object further on the ground that it is hearsay.

A. (continued) who said he supposed he was getting the genuine Webster's.

Q. 17. Did you see the book which he had bought? A. I did.

Q. 18. What book was it? A. Webster's Universal Dictionary.

967 Q. 19. Published by Saalfeld? A. Yes.

(Same objection.)

Q. 20. And he told you this in response to your efforts to sell him a Webster's Dictionary published by the complainant, is that correct? A. That is correct.

Q. 21. How frequent have been your experiences of this kind while endeavoring to sell the Merriam Co.'s Webster's Dictionary?

968

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial, unless connected with either of the books of the defendants.

A. My experience of this kind has been daily.

Q. 22. Have you met with any instances in which the person canvassed by you had purchased the book entitled "Webster's New Standard Dictionary"? A. I do not recall any case of this kind.

Q. 23. In these instances which you have mentioned where persons canvassed told you that they had already purchased a genuine Webster's Dictionary, what, if anything, do they point to about their book in substantiation of their statement? A. Generally, that they do not think the book is the authority—

(Question 23 withdrawn.)

970

Q. 24. You have testified substantially that you have met persons in the course of your canvasses who were deceived into purchasing dictionaries of other publishers in the belief that they were obtaining one of the dictionaries published by the Merriam Company. What caused that deception as stated to you by these persons?

MR. BEAN: That question is objected to as an incorrect statement and summary of the testimony of the witness, and also as 971 calling for hearsay evidence.

MR. CARROLL: I make the same objection.

A. Because of the fact that the dictionary was not the Webster's dictionary used by the Public Schools, generally.

Q. 25. What was there about the book that made them think it was the book used by the schools generally? A. Because it was called 972 "Webster's Dictionary."

Q. 26. And they have stated this fact to you? A. Yes.

DIRECT EXAMINATION CLOSED.

CROSS-EXAMINATION by Mr. Bean:

x Q. 27. I understand then, from your last answer that the test of genuineness of a Webster

Dictionary rests in the fact whether it is generally used in the Public Schools? Is that correct? A. Yes, in the minds of those purchasers.

x Q. 28. You say you have been familiar with Webster's Dictionary one way or another for thirty years; during that period have you not known of various Websters' Dictionaries published by different publishers? A. I have not.

974 x Q. 29. Would it surprise you to know that within the last twenty years or thereabouts there have been Webster's dictionaries published by twenty-five or more publishers other than the Merriam Company?

MR. HALE: Objected to as immaterial, and as assuming facts not in any way proved in the evidence.

A. I would not be surprised at such a statement.

975 x Q. 30. Would you be surprised to learn that such was the fact? A. Judging from the numerous sub-titles of Webster's appearing in recent years, I would not be surprised if such were the fact.

x Q. 31. What do you mean by "sub-title" in that connection? A. Such words as "Imperial," "Universal," "Standard," appearing under the name of "Webster."

x Q. 32. When you say "under," you mean
976 "along with it," I suppose. A. I mean "below."

x Q. 33. Do you know whether a Webster's Dictionary issued by any other publisher than the Merriam Company is in use in the public schools in any part of the United States? A. I do. I know of a small dictionary that is in use in some of the schools; very few schools, however, and those located in small towns or country places; the title of the book I cannot recall.

x Q. 34. Have you known that the Webster's

Universal Dictionary or Webster's Imperial Dictionary to which you have referred in your testimony is in use in the Public Schools in Philadelphia? A. I do not know.

x Q. 35. You have referred to two specific instances where in trying to sell a dictionary of the Merriam Company you have found the party solicited to be the owner of another Webster's Dictionary than those published by your employer; 978 have you not in those instances as well as in others informed such parties that they had not a genuine Webster's Dictionary but that yours was the only genuine Webster's Dictionary? A. I made one instance where the school principal had purchased the dictionary, and another instance where the minister at the seminary had purchased a dictionary and in both cases for their individual use and I informed them that our book as published by the Merriam Company is generally regarded as highest authority. 979

x Q. 36. Isn't it your business to talk up your dictionaries and to talk down the other fellow's? A. It is my business to talk our own dictionary. I never talk of a competitor's unless the purchaser wishes comparison.

x Q. 37. You were asked what you meant by the term "Webster's Dictionary" and you said, if I have you correctly, that you mean the genuine and original dictionary used by the public schools, professional and literary people. What was, if you know, the genuine and original dictionary, bearing the name "Webster"? A. When I speak of the genuine Webster's dictionary I refer to the Webster's Dictionary as published by the G. & C. Merriam Company during the period of about sixty-eight years. 980

x Q. 38. Then if I understand you correctly it is your opinion, that a Webster's Dictionary to be genuine must be published by them? A. I regard

981

John L. Gifford—Cross.

this as true as held in the mind of the general public——

MR. BEAN: I object to that answer as not responsive, and I repeat the question.

x Q. 38. (Repeated).

A. I regard it genuine and authentic if published by G. & C. Merriam Company; if published
982 otherwise, I regard it not genuine.

CROSS-EXAMINATION BY MR. CARROLL:

x Q. 39. Then you would not consider a re-print of the 1847 Webster's Dictionary published for example by Funk & Wagnall to be a genuine Webster's Dictionary? A. I would consider if it was an exact re-print. I would consider it historical genuine; but not a modern genuine Webster's Dictionary.

983 x Q. 40. Nevertheless it is genuine?

MR. HALE: Objected to calling for the witness's opinion on one of the issues in the case, and as to which he is not qualified as an expert.

A. I regard it not genuine.

x Q. 41. In the beginning of Mr. Hale's questions he asked you if you were familiar with "Webster's Dictionary"; what book did you
984 think he meant? A. Webster's New International Dictionary.

x Q. 42. So that each one of the answers which follows those questions apply only to Webster's International Dictionary? A. Yes, as I am familiar with Webster's Dictionary.

x Q. 43. Are there other Webster's dictionaries published by G. & C. Merriam Company? A. Other than the Webster's New International do you mean?

x Q. 44. Yes. A. Yes.

x Q. 45. Which of the G. & C. Merriam Webster's Dictionaries do you sell? A. I did, Webster's New International Dictionary.

x Q. 46. Did you ever sell Webster's Condensed Dictionary? A. No.

x Q. 47. When did you first hear of the G. & C. Merriam Company? A. About thirty years ago.

986

By Mr. Bean:

x Q. 48. You stated in answer to Mr. Carroll's question that you would not consider a reprint of an old Webster's Dictionary of the Merriam Company if reprinted by another publisher to be the Merriam Company's Webster's Condensed a "Modern genuine Webster." Do you consider the Dictionary first copyrighted by them in 1884 a modern genuine Webster? A. I think that should be modified, if the book has more recent copyrights; I consider it modern and genuine.

987

x Q. 49. If the contents of that dictionary are substantially the same as they were in 1884 and if the illustrations in it are the same as they were in 1884, would you consider that that it was a modern genuine Webster because subsequent copyright notices appear on the back of the title page?

MR. HALE: Objected to as incompetent, irrelevant and immaterial, because based on facts incorrectly stated and of which no evidence has been offered and because the authenticity of the book referred to is not in issue.

988

MR. BEAN: The question is asked because the witness has testified as to what in his opinion constitutes a genuine Webster Dictionary, and it is desired to exhaust his opinion upon that subject and to ascertain the basis thereof.

MR. HALE: The question is further objected to as not proper cross examination, as the witness was not asked in chief his opinion as to what constituted a genuine Webster's dictionary.

A. I would consider it a modern genuine dictionary because of the copyrights appearing 990 after the first copyright.

RE-DIRECT EXAMINATION BY MR. HALE:

Re-D. Q. 50. Is the Funk & Wagnall's Standard Dictionary the book known in the market, called for and sold by the name of "Webster's Dictionary"?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial.

991 A. The book published by Funk & Wagnall called the Standard Dictionary is not known as Webster's Dictionary in the market to my knowledge.

Re-D. Q. 51. Would the Standard Dictionary of Funk & Wagnalls be any more a Webster's Dictionary than it is now, if the cover and title page were ripped off and the name "Webster's Dictionary" substituted?

992 MR. BEAN: I object to the question because the witness has not qualified as an expert to answer; also as irrelevant and immaterial.

MR. HALE: I mean as the ordinary buyer understands the term "Webster's Dictionary"?

MR. BEAN: Same objection.

A. The changing of the binding and title of the Standard Dictionary published by Funk &

Frederick W. Seybel—Direct.

993

Wagnalls would not make it a Webster's Dictionary.

DEPOSITION CLOSED.

John L. Gifford.

Subscribed to and sworn to before }
me this 14th. day of February, 1912. }

John A. Shields,
Standing Examiner.

994

FREDERICK W. SEYBEL, a witness called on behalf of the complainant, testifies as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Mr. Seybel, you reside in the City of New York? A. Yes, sir.

Q. 2. You are the president of the F. W. Seybel Company, manufacturers and importers of ladies' hats? A. Yes. 995

Q. 3. Are you at all acquainted with the work known as "Webster's Dictionary"? A. Yes.

Q. 4. Approximately how long have you known of it? A. Well, since my boyhood.

Q. 5. You are the Mr. Seybel who has already made an affidavit for us in this case, are you not? A. Yes, sir.

Q. 6. Are you acquainted with the standing or reputation of Webster's Dictionary as an authoritative work? A. Well, just as I have been accustomed to use it; I have it in my library. I use it for reference. 996

Q. 8. Did that work have a favorable or an unfavorable reputation and standing in your mind? A. Favorable, as I considered it the leading dictionary.

Q. 9. Prior to making the affidavit in this case, did you know the name of the publisher of this dictionary which you regard as a leading authority? A. No. I only know it in a casual way as most men probably would know it, Merriam & Company, publishers of a dictionary compiled by Dr. Noah L. Webster.

998 Q. 10. Early in the year 1911 did you have occasion to purchase a small dictionary entitled "Webster's New Standard Dictionary"? A. Yes.

Q. 11. I show you a book marked "Complainant's Exhibit, Seybel's Dictionary," which was filed with your affidavit in this cause, and ask you if that is the book you purchased at that time? A. This is the book that I purchased, because I wrote my name in it at that time.

999 Q. 12. Please state fully the circumstances under which you obtained this book, including the influences that operated upon your mind and a statement of what you expected and intended to get. A. My office dictionary had become worn out and I happened to be in the office of my superintendent, Mr. Hughes, when he said, "I have got a big bargain in Webster's Dictionary. I asked him, "Is it a genuine Webster?" He said, "Yes." I asked him where he got it, and he replied that he got one from the New York American by the payment of a small sum of money, I forget how much it was, and a number of coupons. He purchased it
1000 for me, sent it to my office, and the first intimation that I had that it was not genuine was when Mr. Hale picked it up and said to me, "You have not a genuine Webster's Dictionary." He asked me if I purchased it for a genuine "Webster" and I told him that I most certainly did. He said, "Would you be willing to make an affidavit to that effect?" and I said, "I certainly would," as I did not care to have forced upon me something that was not as

Frederick W. Seybel—Direct.

1001

it was represented. Mr. Hale asked me if he might have this copy. I said he could and he sent me a genuine Webster to take its place.

Q. 13. Of your own knowledge and except as you have confidence in Mr. Hale's statement, do you know whether the book you have identified and which you purchased from the New York American is or is not a genuine Webster's Dictionary?

A. I have not made any comparison.

1002

Q. 14. And you don't know A. I do not know at this moment.

Q. 15. What, if any, effect did the favorable reputation of Webster's dictionary have upon your mind in making the purchase of this particular book? A. I did not know what this was, nor did I have the time or opportunity to examine it very critically. I would not have been interested had I not believed that I was purchasing the genuine dictionary, Webster's dictionary.

1003

Q. 16. Will you explain what you mean by a "genuine Webster's Dictionary" in your last answer? A. A dictionary published by the Merriam Company, known as Webster's Dictionary.

Q. 17. Until so informed by Mr. Hale at the time he obtained your affidavit, did you know that there was more than one publisher publishing dictionaries described as Webster's dictionaries? A. No, sir.

Q. 18. What did you believe as to the source of all dictionaries denominated "Webster's"; I mean commercial source? A. I believed that there was only one Webster's dictionary, published by Merriam Company; I mean by one, that there were probably a number of editions; I believed that I was getting an abridged copy; I did not expect for such a small sum to get the Webster's unabridged.

1004

Q. 19. Of what book did you suppose this was an abridgement? A. The large Webster Unabridged edition.

1005

Frederick W. Seybel—Cross.

Q. 20. There have been editions of the large unabridged Webster's Dictionary in the following years: 1828, 1840, 1847, 1864, 1890, 1909; which one of these editions did you think you were getting an abridgment of? A. I have the 1890 in my library.

Q. 21. Do I understand you to mean that you thought you were obtaining from the New York
1006 American an abridgement of the 1890 edition of Webster's Dictionary, such as you have in your library, is that what you mean? A. I presumed that I was purchasing an abridged copy of a genuine Webster's Dictionary.

Q. 22. Of a current or of an obsolete edition?
A. Of a current edition.

CROSS-EXAMINATION by Mr. Bean:

x Q. 23. Do you know anything about the copy-
1007 right law Mr. Seybel? A. In a very indifferent way; as a business man might know.

x Q. 24. When you purchased this dictionary you knew Merriam & Company was a publisher of dictionaries? A. I did.

x Q. 25. Do you know how long they and their predecessors had published Webster's Dictionary? A. Well, I knew it had been a great many years.

x Q. 26. Did you know whether any of their
1008 copyrights had expired? A. No, sir.

x Q. 27. Did you look in this book to see who was the publisher? A. No, not at the time I first received it.

x Q. 28. Did you then look on the back of the title page to see who copyrighted it? A. No, sir, did not pay any attention to it.

x Q. 29. You were entirely satisfied with it, were you not, until you talked with Mr. Hale? A. I hadn't examined it up to that time.

x Q. 30. How long was that? A. Possibly a week.

x Q. 31. And he told you it was not a genuine Webster? A. He did.

x Q. 32. And that was all you knew about whether it was genuine or not; what he told you? A. Yes, sir.

x Q. 33. Where did he see this dictionary, in your office? A. In my office.

1010

x Q. 34. Do you know how he happened to be there? A. Mr. Hale is my counsel and he is also interested with me in the Uniform Fibrous Tale Company. He is one of the Board of Directors.

x Q. 35. I note that in your affidavit, Mr. Seybel, you say that you believed you were getting an abridgement of a current edition of Webster's Unabridged Dictionary. Do you know whether there is such an abridgement in existence published by anybody? A. I believed that I was getting a genuine dictionary, and not one of the great thick dictionaries.

1011

x Q. 36. You think what you did get is not genuine because Mr. Hale tells you? A. Absolutely.

x Q. 37. You perhaps know that Noah Webster died many years ago? A. Yes.

x Q. 38. Would an abridgement of an unabridged dictionary published by the Merriam Company upon which unabridged dictionary the copyright had expired, not be a genuine Webster's Dictionary in your opinion, if published by some other house than the Merriam Company?

1012.

A. I wouldn't have the same faith in it.

x Q. 39. But would you say that such a dictionary was not a genuine Webster Dictionary, even though you thought it not so good a one?

MR. HALE: Objected to as incompetent, irrelevant and immaterial and as calling

1013

Frederick W. Seybel—Cross.

for the opinion of the witness upon what constitutes a genuine Webster's dictionary which is the question for the Court and as to which this witness has not been qualified as an expert.

1014

MR. BEAN: The question is insisted upon because the witness's opinion based upon his own knowledge is desired as well as the opinion based on the statement of Mr. Hale, and further because the witness has repeatedly on his direct examination used the phrase "genuine Webster's dictionary" and it is desired to know what he means by it.

1015

MR. HALE: The witness has disclaimed any knowledge and has made no statement as to whether or not the book he bought is or is not a genuine Webster's dictionary. The matter being left for determination by the Court.

A. I would consider the only genuine Webster a publication by the publishers who were so long known as the publishers of the Webster Dictionary as the only genuine Webster's Dictionary whether the copyright had expired or not.

1016

xQ. 40. If you had read the title page of the dictionary referred to at the same time when you wrote your name on the opposite leaf, would you have been deceived in your opinion in purchasing it?

MR. HALE: Objected to as incompetent, irrelevant and immaterial, and as calling for the opinion of the witness upon a state of facts which did not exist and because the name was written in the dictionary after the purchase had been completed.

A. Had I noticed this, I would have rejected it.

Had I noticed at the bottom of the title page—
“New York, Syndicate Publishing Company,
1911” I would have rejected it. I would not have
been deceived if I had seen this.

By Mr. Carroll:

x Q. 41. If you were shown an 1847 edition unabridged published by the G. & C. Merriam Company, would you consider that a genuine Webster's dictionary? A. If on its title page was printed “published by the Merriam Company, of Springfield, Mass.”, I would accept it as a genuine Webster. 1018

x Q. 42. If you were offered an exact re-print of that dictionary published by another house, would you still consider that as a genuine Webster? A. I would consider it a fraud.

x Q. 43. Don't you know that the copyright on that edition had expired and that it is anyone's right to re-publish it? 1019

MR. HALE: Objected to as calling for the witness's opinion on a question of law and because the question for the witness is not one of right, but of identity of different books.

MR. CARROLL: I insist upon the answer to the question because this witness has already testified on his direct examination to a number of questions pre-supposing a knowledge of the law. 1020

A. Yes.

MR. HALE: Objected to further, as argumentative.

x Q. 44. Are you more interested in buying a dictionary, or, more particularly, in buying an edition of a Webster's dictionary, in the pub-

1021

Frederick W. Seybel—Re-direct.

lisher or in the editor? A. I am interested in buying a dictionary more according to its reputation.

x Q. 45. Do you mean its reputation for the correctness of its contents or for the accuracy of its type and the elaborateness of its binding? A. For the correctness of its contents.

1022 x Q. 46. Then you are more interested in the editor than in the publisher? A. I don't give a darn about either one of them.

x Q. 47. What is there about the name "Webster's Dictionary" that attracts you? A. Its name and its reputation.

x Q. 48. Its reputation for what? A. Its reputation for being probably the best English dictionary extant.

1023 x Q. 49. Why do you consider it so? A. For the reason that it is to be found in the best places of learning in English speaking countries.

x Q. 50. And when we have been using the term "Webster's Dictionary" what edition of it have you meant? A. All editions in their time.

RE-DIRECT EXAMINATION BY MR. HALE:

1024 Re-D. Q. 51. If you went into a book store to-day and asked for a copy of Webster's Unabridged Dictionary for present day use, and you were given an exact reprint of the 1847 edition, would you have obtained the specific book which you had in mind to buy? A. No, sir; I would have asked for the latest edition.

Re-D. Q. 52. Since making your affidavit for use on the preliminary motion have you been approached by representative of either defendants? A. Yes.

Re-D. Q. 53. How many times? A. Three or four times.

Re-D. Q. 54. What was the name of the gentle-

man or gentlemen that called upon you in the defendants' interests? A. Mr. George W. Ogilvie, and also by another gentleman whose name I cannot remember.

Re-D. Q. 55. Was it Mr. Rankin? A. Yes, it was Mr. Rankin who called twice with Mr. Ogilvie.

RE-CROSS EXAMINATION by Mr. Bean:

Re-x. Q. 56. I understand you were given a dictionary in place of this one by Mr. Hale? A. Yes. 1026

Re-x. Q. 57. What was the title of it? A. Webster's Collegiate Dictionary.

DEPOSITION CLOSED.

(By consent oath
and signature waived.)

MR. HALE: The Webster's New Standard Dictionary purchased by the witness and identified by him in the foregoing deposition is offered in evidence and marked "Complainant's Exhibit, Seybel's Dictionary, JAS. EXR., February 14th, 1912." 1027

IT IS STIPULATED that all exhibits offered in evidence by the respective parties shall remain in the possession of the party offering the same until the final hearing, but subject at all reasonable times to the inspection by counsel for the opposite party. 1028

ADJOURNED to to-morrow, February 15th, 1912,
at 10 o'clock in the forenoon.

1029

Walter M. Buddecke—Direct.

New York, February 15th, 1912.

10 a. m.

Met pursuant to adjournment.

Present: Counsel as before.

1030

WALTER M. BUDDECKE, a witness called on behalf of the complainant, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Mr. Buddecke, you reside in the City of New York, at No. 7 West 16th Street? A. Yes.

Q. 2. And you are the local manager in the City of New York for G. & C. Merriam Company, the complainant in this case, for the sale of their Webster Dictionary? A. Yes.

1031

Q. 3. How long have you been engaged in that capacity? A. About six years.

Q. 4. Have you in the course of your employment personally sold Webster Dictionaries for the Merriam Company and canvassed persons for the sale of those dictionaries? A. Yes.

Q. 5. From your experience in the dictionary business, do you know what book is understood and intended by the ordinary purchasers and users of dictionaries by the term "Webster's Dictionary?"

1032

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial, as hearsay and as calling for a conclusion of the witness.

A. Yes.

Q. What book do they mean?

MR. CARROLL: Same objection.

A. Those published by G. & C. Merriam Company.

Q. 7. Published by the Merriam Company under what name? A. The Unabridged, the International and the New International.

Q. 8. By what name do the general public refer to the three editions mentioned by you? A. Webster.

Q. 9. Upon what do you base your statement that the ordinary purchaser by the term "Webster's Dictionary" means one of these dictionaries published by the Merriam Company? A. By what people have told me when trying to sell the book. 1034

Q. 10. In recent years other publishers have to a greater or less extent used the name "Webster" in the title of dictionaries not published by the Merriam Company; state if you can how this has affected your business and the sales of the Webster's Dictionary published by the Merriam Company? A. When I first was employed by the firm the Ogilvie book did us a great deal of damage, by preventing us from selling the book. Then the Saalfield book hurt us a great deal too; more recently up to within a month I should say the Syndicate Company's books have reduced our sales fully fifty per cent., if not more. 1035

Q. 11. You know, do you not, that the Saalfield book is the same as the Ogilvie book, Saalfield having succeeded to Ogilvie's business? A. I have been told so.

Q. 12. Please explain how it is that the sales of these other books have decreased the sale of the Merriam book, as stated by you? A. The name "Webster" has been the principal and only reason that people have bought other books thinking that they were getting the genuine Webster, not knowing who the publisher really was. 1036

Q. 13. How do you know that? A. From what they told me in conversation.

1037

Walter M. Buddecke—Direct.

Q. 14. While you were trying to sell them the Merriam Company's book? A. Yes.

Q. 15. Please state what these people have told you from time to time in the course of your canvasses and what you have referred to in your previous answers?

1038

MR. CARROLL: Objected to as irrelevant, incompetent and immaterial; hearsay, and calling for a conclusion of the witness.

1039

A. They have always told me they knew the Webster Dictionary and were astonished to learn that more than one firm was publishing a book under that name. These people in some instances could be convinced that the original publishers of the Webster Dictionary was G. & C. Merriam Company, Springfield, Mass. In other cases, they seemed to think that I, like other salesmen, was simply trying to induce them to buy our book and prejudice them against that of a competitor.

MR. CARROLL: I move that the last part of that answer beginning with 'they could be convinced' be stricken out as not responsive.

Q. 16. Where you say "they seemed to think," do you mean they stated that fact to you? A. Yes.

1040

Q. 17. Based on what these people have said to you, what book do they think they have obtained when they have one of these dictionaries bearing the name "Webster" in the title?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial, and calling for a conclusion of the witness.

A. They state they have bought the book known as the authority and called "Webster's."

Q. 18. How frequent have such instances been in your experience in the sale of the Merriam Company's books? A. Very often.

Q. 19. Can you recall any specific instances that you have in mind of this sort of thing? A. Yes. A man by the name of Weber wanted to buy our book and refused to do so because of the difference in price. He had seen the book and this book had been bought for \$16.00. The sixteen dollar book proved to be the book published by Saalfield. Rather than lose the sale I sold him our book at \$16. and sacrificed my commission, a thing I have never done before. 1042

Q. 20. What book did he say he had bought when he bought the Saalfield dictionary? A. The genuine Webster.

Q. 21. Did he say anything else as to what book it was? A. No.

Q. 21. Did he indicate in any way his idea of what was a genuine Webster's dictionary? A. Yes. That is a question I have asked myself a number of times. And the name "Webster" was the only conclusive evidence they had of owning a genuine Webster. 1043

Q. 22. How often have these people canvassed by you told you that they had a genuine Webster's dictionary when in point of fact they had some dictionary, other than one of the Merriam Dictionaries, but bearing the name "Webster" in the title? 1044

MR. CARROLL: I object to the form of the question as inferring a fact which has in no way been proved, namely that the only genuine Webster is the G. & C. Merriam Webster.

A. Very often.

Q. 23. What do they point to about their book

1045

Walter M. Buddecke—Cross.

as indicating that they have a genuine Webster's dictionary? A. The name "Webster."

Q. 24. Anything else? A. No. The name "Webster" was conclusive to them that it was a book that was known as a genuine Webster.

Q. 25. What did they say to you that leads you to make that statement? A. Why, they said "Webster, there is only one Webster on the market." And when I tell them there are many kinds of Websters on the market, they are surprised.

Q. 26. Does the average purchaser from your experience in this matter know the name of the publisher of the standard authoritative Webster's Dictionary? A. No.

Q. 27. What effect does the use of the name "Webster" in the title of a dictionary have upon its sales, and give your reasons for any answers which you may make? A. I simply couldn't sell a dictionary that did not have the name "Webster" printed on it. That is a book that the majority of people want.

CROSS-EXAMINATION by Mr. Carroll:

x Q. 28. You said that the sale of the Syndicate Publishing Company book had reduced the sales of your book fifty per cent. How do you know that? A. By my accounts; the office accounts.

x Q. 29, But you mean your accounts were reduced fifty per cent.? A. Yes.

x Q. 30. How do you know that was caused by the book of the Syndicate Publishing Company being offered for sale? A. By persons first investigating our book and then buying the Syndicate book, because of the difference in price and because they thought they were one and the same book having the name Webster in the title.

Q. 31. Why do they think it was the same book? A. I have answered that question. Be-

cause the name "Webster" being the principal title to it.

Q. 32. Then all that they wanted was a book with the name "Webster" in the title? A. No, they wanted the genuine book.

Q. 33. What book were you selling when all these experiences of your happened? A. With our New International, our latest edition.

Q. 34. Why do you say then that the Syndicate Publishing Company book, which is a small abridged dictionary, bought by an entirely different class of purchasers than the New International cut into the sale of your New International book? A. We sell our book to the poorest person in New York City, if they are honest and have a reputation of paying their obligations. They have never seen our dictionary, they know nothing about the size, and consequently, it is the name "Webster" what induces them to investigate either book. 1050 1051

Q. 35. What is the price of the New International? A. \$19.00.

Q. 36. Isn't that a good deal for the poorest people in New York to pay for a dictionary? A. When a man knows that he is getting the genuine Webster's Dictionary published by G. & C. Merriam Company, they consider that book, the genuine Webster, at even a greater price than what we ask for it; whereas, they think they are badly stung if they get the Syndicate book at eighty-nine mills, and five million coupons. 1052

Q. 37. Upon what do you base your last statement? A. From what people have told me.

Q. 38. Did you ever know anyone who had bought a Syndicate book under those conditions? A. Yes.

Q. 39. Do you know the usual price at which the Syndicate Publishing Company's book has been sold? A. Persons have told me that they

1053

Walter M. Buddecke—Cross.

paid eighty-nine cents, with six coupons; that is the best of my recollection and they considered that even a high price.

Q. 40. You have said that the general public consider that they have a genuine Webster's dictionary when they see the name "Webster" in the title and that they have said this because they imagined that there was only one Webster in the market, what standard did these people have for a genuine Webster when you told them that there were many Websters in the market? A. Among the poorer classes and laboring classes, their standard of the Webster Dictionary was the book found in the public schools; among the better classes, it is the book that is considered authoritative in universities and colleges; among the educated and among lawyers, it is a book that is accepted by the Supreme Court of the United States as the authority; the book that has been endorsed by nearly every Supreme Court Justice throughout the United States and by the majority of literary people.

1055

x Q. 41. Then the poorer people are satisfied that they are getting a genuine Webster if they get the same book that is used in the schools? A. In New York City, yes. My field is simply here in New York City; I know nothing about conditions outside of New York City I am not qualified to express an opinion.

1056

x Q. 42. Do you suppose that the better class of people whom you referred to in answer to the question before last as wanting the great authoritative Webster thought they were getting it for eighty-nine cents? A. Yes.

By Mr. Bean:

x Q. 43. I understood you to say that the fifty per cent. loss in your sales which you claim to have suffered is in your opinion due to the Syndicate

Publishing Company's book? Is that correct? A. I know that to be a fact.

x Q. 44. You do not then attribute any of that loss to any other Webster's Dictionary than that of the Syndicate Publishing Company? A. I shall have to qualify my answer to the former question. When I first went to the Merriam people the Ogilvie book did us a great deal of damage; we then had to fight the Saalfield book; and recently it has been the Syndicate book. 1058

x Q. 45. You know nothing about a dozen or more publishers of Webster's dictionaries, do you? A. No.

x Q. 46. And you think that an eighty-nine-cent dictionary takes the place of and competes with and prevents the sale of our nineteen dollar dictionary with the same class of customers? A. I don't think; I know.

x Q. 47. I understood you to say that you simply could not sell a dictionary without the name "Webster"? A. No. 1059

x Q. 48. Do you know whether the Funk & Wagnalls Company and the publishers of the Century Dictionary, whose books do not have the name Webster ever sell any copies thereof? A. Why, of course they do.

x Q. 49. Then the name "Webster" is not necessary in order to sell a dictionary, is it? A. Yes, it is. When people have not been satisfied that the book I offered them was the genuine Webster; I have offered them the Funk & Wagnalls book, and I couldn't sell that. 1060

x Q. 50. It is a fact; is it not, with you, that the name "Webster" alone is deceptive with the public? A. Well, yes.

x Q. 51. If a publisher other than the Merriam Company should reprint either the 1847 edition which was published by G. & C. Merriam or the

1061

Walter M. Buddecke—Cross.

1864 edition which was also published by them, the only difference being the imprint of the publisher's name on the title page, would or would not such a reprint be, in your opinion, a genuine Webster dictionary?

1062

MR. HALE: Objected to as incompetent, irrelevant and immaterial, as calling for the opinion and conclusion of the witness upon a matter as to which he has not qualified as an expert and for an opinion upon one of the issues of the case, and also because not proper cross-examination.

A. I do not think I am qualified to answer that question.

x Q. 52. If any publisher other than the G. & C. Merriam Company should reprint either the 1847 edition or Webster's dictionary unabridged or the
1063 1864 edition unabridged, would such a dictionary in your opinion be a genuine Webster's dictionary?

1064

MR. HALE: Objected to as incompetent, irrelevant and immaterial, and as calling for the opinion of the witness upon a state of facts which does not exist in this case, as the defendants' books are admittedly not a reprint of either of the books referred to, but is a new compilation first prepared in the year 1904 and published under the name of the Crown Dictionary.

A. I think that is a question for the courts to decide.

x Q. 53. You stated in your direct testimony that frequently you were not able to convince people who had purchased dictionaries not published by the G. & C. Merriam Company that they had been imposed upon. How did you attempt to so con-

vince them? A. By showing them that the book originally had been published by the G. & C. Merriam Company, and by such evidence in the way of printed matter as the firm sent me.

x Q. 54. Did you fail to convince them by reason of the fact that they did not believe that the G. & C. Merriam Company were the original publishers of Webster's dictionary? A. No. They didn't know who the original publisher was.

1066

x Q. 55. Did they indicate that if they had known that the book which they purchased was not published by the original publisher of Webster's dictionary or by their successors they would not have made those purchases? A. Yes, in a great many instances.

x Q. 56. And in the other instances what did they indicate? A. Simply a matter of price.

x Q. 57. They said then that they did not care whether the book was published by the original publishers or not? A. In those instances, yes; but they were few. A few persons said that they didn't care; but they were very few.

1067

x Q. 58. Can you state why you failed to convince other persons who nevertheless wanted a dictionary published by the original publishers of Webster's dictionary that they had been imposed upon? A. They simply didn't know who was the publisher, and they had been approached by parties who claimed that they were offering them the genuine dictionary, the genuine Webster's dictionary, and were confused and saw no reason why they should accept my statement as an absolute fact.

1068

x Q. 59. In other words, even after you had explained that the book which they had purchased was not published by the original publisher of the Webster's dictionary, they still believed that they purchased the genuine Webster? A. Yes.

1069

Walter M. Buddecke—Re-direct.

RE-DIRECT EXAMINATION BY MR. HALE:

Re-D. Q. 60. In the instances last mentioned, what do they point to as showing that they had a genuine Webster's dictionary? A. The word "Webster."

1070

Re-D. Q. 61. Do you ever have any discussions with such persons as to whether their book is the current existing book or an old book copied or based upon an expired edition?

MR. CARROLL: I object to that question as assuming a state of facts not proved.

A. Yes.

Re-D. Q. 62. What do they say and think they have in such cases? A. The latest edition.

RE-CROSS EXAMINATION BY MR. CARROLL:

1071

Re-x Q. 63. You would say then from your experience that the general public would consider themselves deceived unless they purchased an abridgment of the very latest unabridged Webster's dictionary? A. Yes.

RE-RE-DIRECT EXAMINATION BY MR. HALE:

Re-Re-D. Q. 64. Provided, of course, there has been time to prepare abridgments of the new unabridged? Is that what you mean? A. Yes.

1072

RE-RE-CROSS EXAMINATION BY MR. CARROLL:

Re-Re-x Q. 65. Do you really think that the purchaser of any one of these abridged dictionaries considers particularly the publisher or the date of publication? A. No, but in wanting a dictionary they always expect and want to buy the latest edition of the genuine Webster.

Re-Re-x Q. 66. Were you ever able to read sufficiently into their minds to ascertain what they

meant by "genuine Webster's dictionary"? A. Yes; why I have asked that question myself a number of times and as stated before in my testimony, among the poorer classes, the laboring classes, they regard the Webster dictionary as used in the Schools of the City of New York, as the only genuine Webster that there is. Among the better classes, they also state that the dictionary used in the schools of the City of New York and Colleges, in fact all educational institutions; among professional men, literary people, and in fact all the educated classes, they refer to the Webster dictionary published by G. & C. Merriam Company and admitted by the Supreme Court of the United States as the authority and accepted by almost every Supreme Court Justice likewise in the United States. 1074

Re-Re-x Q. 67. In your answer you have in mind I suppose the book which you have been selling, Webster's New International Dictionary? A. Yes, and the book that is generally supposed to be the authority on the English language. 1075.

Re-Re-x Q. 68. What is the second book that you mention? A. The Webster Dictionary, all dictionaries published by G. & C. Merriam Company.

Re-Re-x Q. 69. Then you mean to say that educated people do not particularly value a dictionary because it has been in use, as you said before, in colleges, but simply because it is published by the G. & C. Merriam Company? A. It is because the book used in colleges is considered the original. 1076

Re-Re-x Q. 70. What book is that? A. Different editions of the genuine Webster's dictionary as published by G. & C. Merriam Company.

Re-Re-x Q. 71. And if a Webster's dictionary published by some other publisher than the G. & C. Merriam Company were in general use in the

1077

Edward Gash—Direct.

schools and colleges of the place where any particular person had resided or had studied, it would follow, of course, that they would consider that dictionary the only genuine Webster's dictionary?

MR. HALE: Objected to as incompetent, and calling for a pure surmise.

1078 A. I have my doubts about that, because there are very few educated people who do not know who are the publishers of the genuine Webster's dictionary.

Walter M. Buddecke.

DEPOSITION CLOSED.

(Sworn and subscribed to.)

John A. Shields,
Standing Examiner.

1079

EDWARD GASH, being first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Your name is Edward Gash and you reside at 914 Lafayette Avenue, Brooklyn, New York? A. Yes, sir.

1080 Q. 2. What is your occupation? A. Travelling salesman for George B. Hurd & Company.

Q. 3. About what is your age? A. Around forty-one.

Q. 4. Have you known of Webster's dictionary in times past? A. When I was going to school I knew of Webster's dictionary.

Q. 5. And since that time? A. Well, as the word "Webster."

Q. 6. During this period what has been your notion of the merits of Webster's dictionary as an

authority on questions of language? A. Only that Webster's dictionary was a standard dictionary.

Q. 7. Have you recently purchased a dictionary from the New York American? A. Well, I purchased one for eighty-nine cents without any coupons.

Q. 8. About when was that? A. About the latter part of last May or June; I cannot recollect the exact date.

1082

Q. 9. But it was during the period when the New York American was running advertisements of a Webster's dictionary to be given in exchange for coupons and a cash payment? A. Yes.

Q. 10. I show you a dictionary entitled "Webster's New Standard Dictionary" and ask you if that is the identical book which you purchased from the New York American? A. Yes, it has my signature.

Q. 11. Please state the circumstances under which you bought this book, including what you intended to buy and what you thought you did buy and the considerations which induced you to make the purchase. A. I bought it on the strength of the word "Webster" and thought it was a very cheap book at the price.

1083

Q. 12. What relation did you think this book had to the Webster's dictionary of which you had previously known? A. I thought it was the same book, as far as my knowledge of the dictionary goes.

1084

Q. 13. Did you know the specific name of the concern which published the Webster's Dictionary which you had known since you were at school and which you say you have regarded as a Standard Dictionary? A. I did not.

Q. 14. Just what do you mean when you say you bought this book on the strength of the word "Webster"? A. Of the reputation of the name "Webster."

1085

Edward Gash—Cross.

Q. 15. Then if I understand you correctly you thought this book which you bought from the New York American was the book which had the reputation which is attached to the Webster's dictionaries which you have known as standard authority. A. That is correct.

CROSS-EXAMINATION by Mr. Bean:

1086

x Q. 16. Did you examine the book when you bought it? A. No, I did not.

x Q. 17. Did you look at the title page? A. I did not.

x Q. 18. Will you look at the title page now and say whether if you had read that page you would have been misled or deceived into thinking it was a dictionary published by the publishers of the dictionary with which you were familiar when you were a boy?

1087

MR. HALE. Objected to as calling for a mere guess of the witness as to what he would have done under circumstances which he testified did not exist.

A. Well, the word "Webster," looking at the title page, would be enough for me to know that I got a genuine dictionary, so far as my knowledge of the dictionary goes.

x Q. 14. Do you know that you didn't? I do not.

1088

x Q. 15. You have made an affidavit already in this case, have you not? A. Yes.

x Q. 16. How did you happen to make that affidavit? A. Well, Mr. Hale asked me to.

x Q. 17. Mr. Hale I suppose told you that you had not got a genuine Webster, did he? A. Mr. Hale told me that I had not gotten a genuine "Webster" dictionary as published by the G. & C. Merriam Company.

x Q. 18. You yourself do not know, but it may be just as genuine, although not published by the G. & C. Merriam Company, do you? A. I think that is a question for the court to answer.

x Q. 19. You don't know, do you, whether the dictionary with which you were familiar in your boyhood was published by the Merriam Company or not? A. I do not.

1090

By Mr. Carroll:

x Q. 20. How long had you had the book when Mr. Hale discovered that you had it? I don't know the date that I bought the book; it was in June—about six months.

x Q. 21. Had you found the book satisfactory?

MR. HALE: Objected to as immaterial.

A. As far as the price; and I thought I had a genuine Webster's Dictionary at the price.

1091

x Q. 22. You said that you thought it was for the court to decide whether or not this book was a genuine Webster's Dictionary. Nevertheless you have stated that you wanted a genuine Webster's Dictionary. What qualities were there that you really wanted? A. I wanted a genuine Webster's Dictionary, and I thought that is what I was buying.

x Q. 23. Well, what do you mean by a genuine Webster's Dictionary? A. A dictionary known as a Webster's Dictionary when I was a boy.

1092

x Q. 24. If the Webster's Dictionary you used as a boy were published by the Saalfeld Publishing Company, and you were now offered another dictionary published by the Saalfeld Publishing Company, would you consider the present dictionary a genuine Webster's Dictionary?

MR. HALE: Objected to as calling for a mere guess or surmise of the witness, not

1093

Edward Gash—Cross.

based on facts shown to exist and as irrelevant and immaterial.

A. If one was published when I was a boy by the Saalfeld Company, and was published now by the Saalfeld Company I would not know the difference.

x Q. 20. And you would think it genuine? A. As far as my belief would be.

x Q. 21. As a matter of fact, do you care who the publisher is? A. Well, not as long it is a dictionary; but the word "Webster" would carry it a great way in my belief.

MR. CARROLL: I move to strike out the latter part of the answer as not responsive.

x Q. 22. Are you not more interested in the contents of the dictionary than in the publisher? A. You mean in looking up the definition of a word, or something of that kind?

x Q. 23. Yes. A. Yes.

x Q. 24. So that if the contents of the dictionary which you bought are as a matter of fact taken from and based on the original unabridged Webster's Dictionary which was edited and compiled by Noah Webster, you would be satisfied that it was the dictionary that it claimed to be?

MR. HALE: Objected to because it is not shown and it is not the fact that the book contains the same literary contents as any dictionary ever published under the name Webster and is so admitted in the answer.

A. Yes.

x Q. 25. Do you remember whether the school dictionary which you spoke of was a large or a small dictionary? A. As far as I can recollect it was a small dictionary.

x Q. 26. Where was that? A. I went to school in New York and Brooklyn.

x Q. 27. You don't remember the name of the dictionary? A. I remember the word "Webster" as plain as I do my own name.

x Q. 28. You have spoken several times about having been attracted to the book by the reputation of the name "Webster"; you meant by this I suppose the reputation of the editor Noah Webster who originally compiled the great unabridged dictionary? A. I was attracted by the name of "Webster," "Webster's Dictionary." 1098

x Q. 29. What made the name "Webster" attractive to you? A. Because I used it as a boy and I know that Webster's was the standard dictionary as far as my belief.

x Q. 30. What made you think that the dictionary you used in school was the standard dictionary? A. I have no belief that it was the standard dictionary, only that it was used in school and was the "Webster's Dictionary." 1099

x Q. 31. You would have been satisfied then with any selection made by your School Board? A. Certainly would.

RE-DIRECT EXAMINATION BY MR. HALE:

Re-D. Q. 32. What year did you finish your school? A. Somewheres around '85.

Re-D. Q. 33. Do you regard yourself as an expert on dictionaries and as qualified to pass judgment on the intrinsic merits of rival dictionaries? A. I do not. 1100

Re-D. Q. 34. You have stated that you were more interested in the contents of the dictionary than in who published it; upon what did you rely as showing that the contents of this book purchased by you from the "New York American" was worth buying? A. I don't understand the question.

1101

Edward Gash—Re-cross.

Re-D. Q. 35. You stated that you bought the book without examining what was in it. What was there about it that convinced you that you wanted it? A. Why the word "Webster."

RE-CROSS EXAMINATION BY MR. CARROLL:

Re-x Q. 35. What do you want a dictionary for anyway? A. To refer to in looking up a word.

1102

Re-x Q. 36. And you want the spelling and definitions to be correct? A. Yes.

Re-x Q. 37. You bought a Webster's dictionary because you thought that the rules of spelling laid down by Noah Webster and the definitions given in his original dictionary were correct, is that true?

1103

MR. HALE: Objected to on the ground that it has not been shown that this witness ever saw a dictionary prepared by Noah Webster who died many years ago.

A. Yes.

Re-x Q. 38. And you didn't care who the publisher was as long as it met those other qualifications? A. As long as it met those other qualifications.

1104

Re-x Q. 39. You said a moment ago that you bought a dictionary to consult for spelling and definitions, and that you were attracted to this particular dictionary because it bore the name "Webster" and because you had been led to believe since your school days that the spelling and definition of the original Webster dictionary were correct? If it be shown to be the fact that the spelling and definitions in this dictionary follow the same rules and are in general based upon the spelling and definitions of that original Webster dictionary, would you be satisfied with it irrespective of the publisher?

MR. HALE: Objected to as incorrectly

summarizing the testimony of the witness, he having made no reference to what is termed the "original dictionary" prepared by Dr. Noah Webster in his lifetime, but having referred only to the Webster's dictionary which is now regarded as a standard authority.

A. If the book contained the same wording as the original dictionary, yes. 1106

By Mr. Bean:

Re-x Q. 40. When Mr. Hale approached you, did he ask you if you thought you had a genuine Webster? A. Yes.

Re-x Q. 41. Did he tell you that you got a spurious Webster? A. He told me that I did not get the original Webster?

Re-x Q. 42. Whether or not it is genuine or spurious, is not known to you is it, except as Mr. Hale told you? A. Only what he told me. 1107

By Mr. Carroll:

Re-x Q. 43. Does the name "Webster" on a dictionary mean anything to you except that that dictionary contains the correct spelling and definition of a word? A. I answer that, yes.

Re-x Q. 44. What more does it mean to you? A. It means by the name on the book that I have a genuine book. 1108

Re-x Q. 45. Does a genuine dictionary mean any more to you than that the book contains correct spelling and definition? A. That is all.

DEPOSITION CLOSED.

Edward Gash.

Sworn to and Subscribed.

John A. Shields,
Standing Examiner.

1109

Thomas F. Foley—Direct.

THOMAS F. FOLEY, a witness called on behalf of the complainant, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence, and occupation? A. Thomas F. Foley; age, 36; residence, 560 11th Street, Brooklyn, N. Y.; occupation, traffic supervisor American Telegraph and Telephone Company.

1110

Q. 2. You have previously made an affidavit on behalf of the G. & C. Merriam & Company in this case? A. Yes.

Q. 3. You have also been approached by representatives of the defendant Syndicate Publishing Company in reference to your affidavit? A. Yes.

Q. 4. And you made an affidavit for them also? A. Yes.

Q. 5. Have you a copy of that last affidavit? A. No, sir.

1111

Q. 6. Was a Mr. Ogilvie the representative who called upon you in behalf of the defendant? A. He was one of the defendants.

Q. 7. And Mr. Rankin was the other? A. Mr. Rankin was the other.

Q. 8. Were all the statements made by you in both of said affidavits true to the best of your knowledge, information and belief? A. Yes, sir.

Q. 9. How long have you known of Webster's dictionaries in a general way? A. Ever since I was at school.

1112

Q. 10. Where did you go to school? A. New Foundland.

Q. 11. When did you quit school? A. About '85.

Q. 12. How did you understand the Webster's dictionaries were regarded as standard meritorious works? A. Well, I understood them to be so from hearing of them, or by reputation.

Q. 13. You are referring now to the Webster dictionaries in general use at and since the time you knew of them at school? A. Yes, sir.

Q. 14. In or about the early part of December, 1911, did you purchase a dictionary from the New York American? A. Yes, sir.

Q. 15. What led you to make that purchase? A. Well, I had been attracted to it by the advertisement.

1114

Q. 16. Did you at that time know the specific name of the publisher of the standard authoritative Webster dictionaries to which you have already referred? A. No, sir.

Q. 17. What book did you think was being advertised and what book did you intend to buy when you bought this book from the New York American? A. A Webster's Dictionary.

Q. 18. And what relation did you think it had to the Webster's Dictionary and which you had previously known and which enjoyed the reputation which you have stated? A. At the time I obtained it I was under the impression that it was a Webster's Dictionary.

1115

Q. 19. Published by the same or different publishers than the other Webster's dictionaries to which you have referred? A. Well, I hadn't given the matter much thought. I was under the impression that all Webster's dictionaries were the same.

Q. 20. I show you a dictionary entitled "Webster's New Illustrated Dictionary," and ask you if that is the identical volume which you purchased from the New York American? A. Yes, sir.

1116

Q. 21. Did you examine this dictionary at or before you purchased it or did you purchase it by its name and advertisement alone? A. I did not examine it before purchasing, taking it for granted that it was a Webster Dictionary.

1117

Thomas F. Foley—Direct.

Q. 22. Because it was called such? A. Because of its name.

Q. 23. Upon the title page of this book which you bought appears the following statement: "This dictionary has been revised and brought up to the present date in accordance with the best authorities and is not published by the original publishers of Webster's Dictionary or by their successors." When did you first, if at all, notice that statement or learn that it was in the book? A. The night after making an affidavit for Mr. Hale.

Q. 24. What called it to your attention then? A. Well, up to that time I hadn't taken much interest in it but when I went home I took the book out of its wrapping and examined the title page and found the statement, that the book was not published by the publishers of the original dictionary.

1119 Q. 25. You did not know who these original publishers were? A. No, sir.

Q. 26. Of your own knowledge, do you know now, whether or not this book is a genuine Webster's Dictionary?

MR. BAYNE: I object to the form of the question in that it assumes that the dictionary referred to is not a genuine Webster Dictionary and there is no evidence to that effect.

1120

A. All that I know about it is what I am told about it in the announcement on the title page of that book.

Q. 27. Did you notice the same or a similar announcement in the advertisements which led you to purchase it; I mean before you completed your purchase. A. Not before I obtained the book.

Q. 28. As you did not examine the book before buying it, upon what did you rely to show that it was a good dictionary worth buying? A. I was under the impression that any book bearing the name of "Webster" was worth ninety-eight cents.

CROSS-EXAMINATION BY MR. BAYNE:

x Q. 29. Did the word "Webster" mean to you 1122
correct spelling and correct definitions in the dictionary? A. I understood that a Webster dictionary was a standard dictionary, and I was perfectly satisfied to accept the spelling and definitions of any word or words contained in it.

x Q. 30. Did the word "Webster" indicate to your mind anything more than that the dictionary so labelled contained standard spelling and standard definitions? No, sir.

x Q. 31. When Mr. Hale questioned you preliminary to your giving an affidavit did he state to you that the dictionary you had bought was a spurious Webster dictionary? A. I do not recall that he used the word "spurious." 1123

x Q. 32. Did he state it was not a genuine Webster dictionary? A. I don't know that he did. But I inferred from what Mr. Hale did say that it was not a copy of the original Webster.

x Q. 33. Does the expression a "Webster dictionary" mean to your mind a dictionary containing the Websterian spelling and Websterian definitions by whatever publisher published? A. Yes, for the reason that I was under the impression that all Webster dictionaries were published by the same people or their agents. 1124

x Q. 34. But if you were offered a dictionary containing the same literary matter, the same Websterian spelling and Websterian definitions, would it matter to you who published it? A. No, sir.

1125

Thomas F. Foley—Cross.

x Q. 35. Is not therefore the word "Webster" one which conveys to your mind solely the idea of literary excellence? A. Yes, sir.

By Mr. Carroll:

x Q. 36. In the affidavit which you gave to Mr. Hale sworn to on the 18th of December in this action, you stated as follows:

1126 "I understood and believed when I bought the dictionary that I was getting a genuine Webster's dictionary." Do you still believe that?

MR. HALE: Objected to as irrelevant and immaterial. The present belief of the witness being wholly immaterial.

A. Your question is really two questions and really calls for two answers, as I understand it. At the time that I got this dictionary I was under
1127 the impression that it was a Webster's dictionary; since making that affidavit I have looked into the matter more fully and in view of the announcement made in the American's advertisement and also on the title page of the book, I am quite satisfied that the book was not published by the same publishers as the original Webster dictionary.

x Q. 37. Do I understand you to say, then that in your mind the genuine Webster's dictionary must be a dictionary published by the same
1128 original publisher? A. Yes. Published by the same original publishers or their agents or somebody delegated by the original publishers to publish the work.

x Q. 38. Would a reprint of one of the earlier editions of Webster by some other publisher than the so-called original publishers be in your mind a genuine Webster dictionary? A. I don't feel qualified to answer the question, but I would probably be as well satisfied with the reprint.

RE-DIRECT EXAMINATION BY MR. HALE:

Re-D. Q. 38. If you should go into a store to-day and ask for a Webster's dictionary and in place of being given a copy of the current book now in general use, you were given a reprint of a book of different contents and published in the year 1847, would you be receiving the book you intended to buy when you asked for Webster's dictionary? A. Not unless the book had been brought up-to-date by annexes. 1130

Re-D. Q. 39. In your affidavit on behalf of defendant you stated as follows:

"I am now convinced that I was induced to make the aforesaid affidavit (referring to your affidavit for complainant) through misrepresentations, and while I regret having made such an affidavit am glad of the opportunity to rectify the mistake." Please state what are the alleged misrepresentations to which you here refer? A. I do not recall. What I meant was that at the time I secured this book I had not noticed the announcement contained in the advertisement or the title page that this book was not published by the original publishers of the Webster dictionary. If I had noticed it, it is doubtful if I would have made the first affidavit. 1131

Re-D. Q. 40. Is that all you meant by the quoted statement. A. Yes.

Re-D. Q. 41. You do not now charge or claim that Mr. Hale made any misrepresentations to you whatever, is that correct? A. Yes. Mr. Hale's talk with me, as I remember it, bore no misrepresentations. The only thing that made me change my mind after making the first affidavit was the fact that I afterwards noticed the announcement in the advertisement and in the title page that the book was not published by the original publishers. 1132

Re-D. Q. 42. Please look at the affidavit that you

1133

Thomas F. Foley—Re-direct.

made for the complainant at the request of Mr. Hale and point out any statement in it which is not true in manner and form as stated. A. The affidavit which I made for Mr. Hale was true in every respect, to the best of my knowledge at the time the affidavit was signed.

1134

Re-D. Q. 43. And it is true to-day, except that you have since learned that the book bore a statement that it was not published by the original publishers or its successors, is that correct? A. Yes, sir.

1135

Re-D. Q. 44. And the only thing in that affidavit which you wish to rectify and which you deem a mistake is the statement that you had no reason to think that the book was not a genuine Webster's dictionary, is that correct? A. Yes, sir. I might add that I am not quite sure that the words "Beware of other dictionaries" appeared in the advertisement which led me to purchase the book.

1136

Re-D. Q. 45. You did, however, state that fact to Mr. Hale before he drafted the affidavit for you did you not? A. Yes, I probably used those words, as it is a common phrase applied by nearly all advertisement writers.

Re-D. Q. 46. In your affidavit for defendant you have compared the defendant book with certain books of the complainant expressing an opinion in favor of the merits of defendant's book. You refer especially to its definitions in which you say it is better and more modern. I notice in the book which you bought that the words "Turkish Bath" is defined simply as "A hot air bath." Do you regard that as a correct definition? A. I do not feel qualified to define Turkish bath.

Re-D. Q. 47. The word "pasteurize" is defined in the defendant's book purchased by you as follows: "To inoculate with the bacillus which produces a specific disease." How do you think that applies to the phrase "pasteurized milk"?

Thomas F. Foley—Re-direct.

1137

MR. CARROLL: I object as incompetent, irrelevant and immaterial, calling for an answer which the witness is not qualified to make.

A. I am not qualified to define the word "pasteurize."

Re-D. Q. 48. I have here a list of words taken from defendant's dictionary either inaccurately defined or incorrectly spelled or subject to some other criticism; do you decline to express an opinion as to the correctness of defendant's dictionary upon those subjects? 1138

MR. CARROLL: I object to that question as incompetent, irrelevant and immaterial; assuming a state of facts not proved.

A. I decline on the ground, I consider I am unqualified to pass judgment on any dictionary. 1139

Re-D. Q. 49. In your affidavit on behalf of defendant, however, you have stated that defendant's dictionary is better in every respect than the complainant's Webster's Collegiate dictionary and the complainant's Webster's Condensed Dictionary. The two errors to which I have called your attention in defendant's dictionary were not pointed out to you at the time you made that affidavit, were they?

MR. CARROLL: I object to that question because it contains a statement which is not true, namely, that Mr. Hale has pointed out two errors in the dictionary of the defendants. 1140

A. No, these errors were not pointed out to me.

Re-D. Q. 50. And you now disclaim the qualification to express an opinion on the relative merits of dictionaries? A. Yes, sir.

1141

Thomas F. Foley—Re-cross.

Re-D. Q. 51. Is there anything else you would like to add to your deposition so as to complete the facts, and if so, please do it now. A. In stating that I considered the New York American Dictionary more up-to-date than the Webster's Collegiate dictionary I made this statement after Mr. Rankin had turned to the word "locomotive" in the Webster's Collegiate Dictionary and pointed out to me
 1142 that the smokestack of a locomotive was called the "chimney." And my opinion was based upon that fact. It is quite possible that Mr. Hale could have taken the New York American Dictionary and pointed out a definition of some word just as much behind the times as "chimney" for smokestack.

Re-D. Q. 52. But as a matter of fact, Mr. Hale did not enter upon any such comparison with you in order to induce you to make the affidavit which you did make, is that correct? A. Mr. Hale, as I
 1143 remember, did turn to some word in the New York American Dictionary, I have forgotten exactly what the word was, and pointed out that the word in question was defined at greater length in the Webster's Collegiate Dictionary than in the one that I had obtained from the New York American.

RE-CROSS EXAMINATION by Mr. Carroll:

Re-x Q. 53. Will you explain the circumstances under which you made this affidavit entitled in this
 1144 action dated January 29th, 1912. A. Mr. Rankin and another gentleman, whom he introduced as Mr. Ogilvie, called at my house, 560 11th Street, Brooklyn, and said, "You have made an affidavit for an attorney named Hale in reference to a book which you obtained from the New York American, and we would like to have you point out to us why you made that affidavit." And as I remember it, Mr. Rankin's questions were mostly along the line as to whether I considered I had

been imposed upon when I got this book from the New York American. I think I made it clear to Mr. Rankin I did not consider I had been imposed upon or swindled and that I was fairly well satisfied with the book I had obtained, and which I consider worth more than what I paid for it.

Re-x Q. 54. I show you this affidavit referred to above and ask you if there are any corrections which you wish to make. A. I am willing to answer any questions that you may put to me in reference to this affidavit. 1146

MR. CARROLL: I move the answer be stricken out.

Re-x Q. 55. (Re-x Q. 54 repeated.) A. I have already gone over this and I will let the answers stand that I gave to Mr. Hale.

Re-x Q. 56. Isn't it a fact that this affidavit was presented to you in draft form and corrected in accordance with suggestions made by you? A. Yes. Mr. Rankin presented this affidavit to me three times altogether; the paragraph that I objected to, the exact wording of which I have forgotten, was finally changed at my suggestion to read, "I did not notice at the time the announcement in the New York American calling attention to the fact that the book was not published by the original publishers of Webster's dictionary, or by their successors," but later on I noticed the announcement and also ones to the same effect on the title page in the book. The foregoing is the paragraph which I corrected for Mr. Rankin. Mr. Rankin had definitely stated in the draft of the original affidavit the attorney whom I had made the first affidavit for was named "Hale." I had Mr. Rankin change this to read, "an attorney whose name I think was 'Hale'." 1148

Re-x Q. 57. In your answer to one of Mr. Hale's

1149

John D. McCarthy--Direct.

questions you stated that you did not consider yourself qualified to pass judgment on any dictionary. Did you not mean qualified to pass judgment on the correctness of the definitions of any dictionary? A. I meant, while I may pass judgment on the spelling or definitions, I was not qualified to pass expert opinion or judgment.

1150

DEPOSITION CLOSED.

Thomas F. Foley.

Sworn and subscribed to—

John A. Shields.

Standing Examiner.

1151 JOHN D. MCCARTHY, a witness called on behalf of the complainant, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation? A. John D. McCarthy; age, 49, residence, 56 14th Street, Flushing, N. Y.; occupation, salesman.

Q. 2. You are salesman for what concern? A. J. D. McCarthy Company.

1152 Q. 3. Dealers in what? A. Typewriter supplies.

Q. 4. In the course of your business have you since January 1, 1911, distributed any copies of a book entitled "Webster's New Illustrated Dictionary"? A. Yes, sir.

Q. 5. From whom do you obtain those books? A. Syndicate Publishing Company.

Q. 6. Do you buy them outright or if not, please state just the general nature of your arrangement? A. Bought outright.

Q. 7. I show you a book entitled Webster's New Illustrated Dictionary and ask you if that is the dictionary that you have distributed as stated?

A. Yes, sir.

Q. 8. Are you still distributing these dictionaries? A. Yes, sir.

Q. 9. I notice upon the title page of the dictionary identified by you, the following words: "1911—Published for J. D. McCarthy Co., New York, manufactures and distributors of Brighton Brand Carbon papers and typewriter ribbons." How do these words come to be inserted upon the title page of that book? A. We do that ourselves. 1154

Q. 10. Do you mean that you yourselves print the title page of the books distributed by you? A. Yes, sir.

Q. 11. Where do you have the work done? A. What do you mean, the printing or the insertion?

Q. 12. The printing first and then the insertion. A. The printing was done by a firm E. N. Katz, and their address is 204 Centre Street, I think, New York. The insertion was done by ourselves in our own office. 1155

Q. 13. Is the title page tipped in into books already bound? A. Yes, sir.

Q. 14. Do you obtain bound books from the Syndicate Publishing Company without a title page and then tip in your own title page? A. We buy the books from the Syndicate Publishing Company complete with the title page, but after we get possession we insert our own title page giving the publisher full credit for the work. 1156

Q. 15. From what source did you derive the copy for the printed matter which appears upon this page other than the portion already quoted which relates directly to the McCarthy Company? A. That is a fac-simile of the title page of the book furnished to us by the Syndicate Company, only that we get the form set up more compactly.

1157

John D. McCarthy—Direct.

Q. 16. Was this cancellation and substitution of title pages pursuant to any arrangement made with the Syndicate Publishing Company in any manner?

MR. CARROLL: I object to this whole line of questioning as incompetent, irrelevant and immaterial and not within the issues.

1158 A. No, sir.

Q. 17. Do you remember selling this particular book that you have identified to Mr. Hale? A. Yes.

Q. 18. And that was on or about the 18th day of December, 1911? A. Yes, sir.

Q. 19. I show you an advertising leaflet and ask you if that is one of the advertisements issued by the J. D. McCarthy Company in connection with the distribution of these dictionaries?

1159 (Same objection, and to similar questions throughout.)

A. Yes.

Q. 20. Are you now distributing similar advertisements? A. Yes, sir.

Q. 21. And have done so since January 1, 1912? A. Yes, sir.

1160

MR. HALE: The dictionary identified by the witness is offered in evidence and marked "Complainant's Exhibit, McCarthy Dictionary, Jas, Exr., February 15th, 1912."

Also the advertising leaflet is offered in evidence and marked "Complainant's Exhibit, McCarthy advertisements, Jas Exr, February 15, 1912."

MR. CARROLL: I object to both exhibits as irrelevant and immaterial.

Q. 22. Who composed or prepared the copy for the matter printed in this advertisement upon either side? A. By our company.

Q. 23. What individual? A. The copy on the side of the page containing the words "Webster's Dictionary Coupon," was prepared by myself and the other side, with the cut of the dictionary was taken from a stock form of the Syndicate Company's literature on this book.

Q. 24. Did they furnish you literature for the purpose of preparing advertisements? A. No, sir. 1162

Q. 25. They furnished you nothing whatever? A. Only what I bought.

Q. 26. Did you buy any advertising literature?

A. Yes, from the Syndicate Pub. Co.

Q. 27. Have you any samples of it? A. No, sir.

Q. 28. Did the Syndicate Publishing Company supply you with the cut of the dictionary which appears on the advertising sheet offered in evidence? A. Yes, sir. 1163

Q. 29. I show you a box or carton and ask you if that is the box in which you distribute the said dictionaries? A. Yes, sir.

Q. 30. Who prepared the printed matter that appears thereon? A. I did.

MR. HALE: The Carton is offered in evidence and marked "Complainant's Exhibit, McCarthy's Carton, JAS EXR, February 15th, 1912." 1164

Q. 31. When did you obtain your last supply of dictionaries from the Syndicate Pub. Co.? A. I could not tell you the exact date; some time in the latter part of December.

Q. 32. What is the arrangement upon which you distribute these dictionaries to your customers? A. We use them as an advertising medium;

1165

John D. McCarthy—Cross.

we both give away and also sell on the presentation of one of those coupons to our office:

Q. 33. What is the selling price when you do sell them? A. We don't sell them; we give one with a coupon and eighty cents.

Q. 34. What are the conditions upon which you give them without any cash payment? A. To introduce our Brighton Brand carbon paper and
1166 ribbons; on the minimum amount of ten dollars we will give one of those books free on an initial order.

Q. 35. You were subpoenaed to come here and give this testimony and do not appear as a volunteer witness, do you not? A. Yes, sir.

CROSS-EXAMINATION BY MR. CARROLL:

x Q. 36. You say you sold one of these dictionaries to Mr. Hale, where was that? A. At our
1167 office then at 142 Fulton Street and we are at the present time at 176 Fulton Street.

x Q. 37. What was said between you and Mr. Hale? A. I think when Mr. Hale come to see me there first off he asked me if I bought this dictionary from the Syndicate Publishing Company and whether I was imposed upon. I told him I did buy it from the Syndicate Publishing Company, but I did not think that I was imposed upon as I got the worth of my money.

1168 x Q. 38. You got what you expected to get? A. Yes, sir; got the value.

x Q. 39. And you got a Webster's Dictionary?

MR. HALE: Objected to as calling for the witness' opinion on a question at issue which is for the court and not the witness to determine.

A. Yes, I got Webster's dictionary, hundreds of them.

x Q. 40. Did you ever handle any other Webster's dictionary? A. Yes, sir.

x Q. 41. What one? A. I handled one published by E. A. Miles of South Lancaster, Mass.

x Q. 42. Was that an abridged dictionary? A. An abridged.

x Q. 43. Do you remember what it was called? A. Webster's Pocket.

x Q. 44. Did any one of your customers ever return either one of the Webster's New Illustrated dictionaries which you purchased from the Syndicate Publishing Company or one of the Pocket dictionaries which you have just mentioned alleging that they had not received what they expected to get? A. No, I have always had satisfied customers on those books; in fact they recommended them to friends and came for more. 1170

x Q. 45. From your experience, and from your general knowledge, what does a Webster's dictionary mean to you? 1171

MR. HALE: Objected to as not proper cross examination and as calling for the opinion of the witness upon a question as to which he has not been qualified as an expert.

A. Book based on Noah Webster's Unabridged.

x Q. 46. In your mind, does the title "Webster's dictionary" suggest any particular publisher? A. No, sir. 1172

RE-DIRECT EXAMINATION by Mr. Hale:

Re-D. Q. 47. You have heretofore made an affidavit for the defendant in this case, or one of them? A. Yes, sir.

Re-D. Q. 48. When did you make that affidavit? A. About a week ago.

1173

John D. McCarthy—Re-direct.

Re-D. Q. 49. Under what circumstances and at whose request?

MR. CARROLL: I object to this line of questions as not proper re-direct.

1174

MR. HALE: Defendant made the witness his own by exceeding the limits of cross-examination and complainant is entitled to fully test the witness's position upon the matters testified to.

A. I was up in the office of the Syndicate Publishing Company in regard to an inquiry for some of our goods when I met Mr. Wright and he interrogated me on this subject.

Re-D. Q. 50. Was the affidavit made then and there? A. No, sir.

1175

Re-D. Q. 51. What next took place? A. He asked me a few questions on the subject, and asked me if I ever heard of the Merriam Publishing Company in connection with dictionaries. I told him I did not.

Re-D. Q. 52. Was anything said between you as to what constituted the Webster's Dictionary? A. No, sir.

1176

Re-D. Q. 53. Neither at that time nor at any other time? A. He asked me would I testify in regard to my opinions on this Webster Dictionary, and I told him I would if it was made in proper form with my belief. He called in somebody, stenographer I believe, to take down questions and my answers, and I told him that if an affidavit was made out in that form that I would sign. After the elapse of a few days I got a letter from the Syndicate Publishing Company specifying a time to call; I did so call. The affidavit was prepared; it met with my approval and I signed.

Re-D. Q. 54. When did you first hear of Web-

John D. McCarthy—Re-direct.

1177

ster's Dictionary in your whole life? A. When I was a boy at school.

Re-D. Q. 55. And you have heard of it more or less ever since? A. Yes, sir.

Re-D. Q. 56. When you stated that you had hundreds of Webster's dictionaries, you meant copies of Webster New Illustrated Dictionary obtained from the Syndicate Publishing Company, did you not? A. Yes, sir.

1178

Re-D. Q. 57. Did the Syndicate Publishing Company or any one purporting to act for them warn you of any restrictions upon the right to use the name "Webster" upon any of the dictionaries? A. No, sir.

Re-D. Q. 58. When you first took up this book as an advertising proposition, did you first broach the proposition or did some one representing the book broach it to you? A. I broached the subject myself.

J. D. McCarthy.

1179

DEPOSITION CLOSED.

(Sworn and subscribed to.)

John A. Shields,

Standing Examiner.

MR. HALE: Complainant's Counsel offers in evidence the dictionary identified by the witness Thomas F. Foley and the same is marked "Complainant's Exhibit, Thomas F. Foley's Dictionary, Jas., Exr., February 15th, 1912."

1180

Also, the dictionary purchased and identified by the witness Edward Gash, and the same is marked "Complainant's Exhibit, Edward Gash's Dictionary, Jas., Exr., February 15th, 1912."

IT IS STIPULATED by the respective Counsel that all objections to questions asked by Counsel for Complaint whether made ostensibly by either Counsel for Syndicate Publishing Company or

1181

Arthur Lutz—Direct.

Cupples & Leon Company, shall be equally available to both, and,—

Further that all cross-examination whether ostensibly by Counsel for Syndicate Publishing Company or Cupples & Leon Company shall be deemed to have been carried on in behalf of each of the respective defendants, and if it shall be necessary, may be read into the record in each
1182 case separately.

Adjourned, to meet in New York, at same place, Monday, February 19th, 1912, at 11 o'clock in the forenoon.

NEW YORK, February 19th, 1912.

Met pursuant to adjournment.

1183

Present—MR. HALE for Complainant.

MR. CARROLL on behalf of both Defendants.

ARTHUR LUTZ, called on behalf of the complainant, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please give your name, age, residence and
1184 occupation? A. Arthur S. Lutz; age, 18; residence, 975 Bedford Avenue, Brooklyn; occupation, clerk for the American Steel & Wire Company.

Q. 2. Where did you attend school? A. Public School No. 45, and Commercial High School, Brooklyn.

Q. 3. How long have you known of Webster's Dictionaries? A. Why I should say about five or six years, as far back as I can remember through school.

Q. 4. Did you use a Webster's dictionary in school. A. Used the Webster's High School Dictionary in the Commercial High School; it was given out by the school there to be used by the pupils; it was one of the regular books in the first two terms.

Q. 5. What was the reputation of Webster's dictionaries as good and reliable books as you understood it? A. My understanding was the Webster's dictionary was the best authority that could be had. 1186

Q. 6. Have you recently had occasion to purchase a dictionary? A. I have.

Q. 7. When and under what circumstances? A. I purchased a dictionary through the Brooklyn Times, giving six coupons and ninety-eight cents for same.

Q. 8. Was this on or about October 11, 1911? A. About that time.

Q. 9. How did you come to buy this book from the Brooklyn Times? A. Saw the advertisement and coupons in the paper. 1187

Q. 10. I show you a book entitled "Webster's New Standard Dictionary" and also a carton bearing the label and ask you if that is the identical book which you bought and if it came in that or a similar carton? A. That is the book which I purchased and it came in a carton similar to that, if not that same one.

Q. 11. Did you at the time you purchased this book know the specific name of the publisher of the Webster's dictionaries which you say had a favorable reputation in your mind? A. I did not know. 1188

Q. 12. Did you know whether or not there was more than one publisher issuing dictionaries under the name of Webster? A. I did not.

Q. 13. What did you know or believe on that

1189

Arthur Lutz—Direct.

subject? A. I believed that Webster Dictionary was published by one company, the name of which I did not know.

Q. 14. What book did you think and intend to buy when you bought this book? A. I thought I was buying a copy of the Webster dictionary.

1190 Q. 15. What connection did you think it had with the Webster's High School Dictionary which you had used at school? A. I believed the book which I was about to purchase was published by the same company as that which published the one I used in school.

Q. 16. Did you examine this book at or before the time you purchased it? A. I ran through the pages, but did not examine very closely.

1191 Q. 17. Upon what did you rely, if anything, in deciding that the book was worth buying at the price? A. Why I relied upon the fact it appeared to be a pretty fair edition of Webster's dictionary.

Q. 18. Did the good reputation of Webster's dictionaries in your mind have anything to do with causing you to purchase this book? A. I believed that in purchasing a Webster's dictionary I was getting the best book and the best value for the money I paid out.

1192 Q. 19. Of your own knowledge and aside from what you have been told by anyone, do you know whether or not the book you bought from the Brooklyn Times is or is not a genuine Webster's dictionary? A. I do not know.

Q. 20. But what was your belief at the time you bought it? A. I believed it was a book which was published by the company which I assumed published all Webster's dictionaries.

Q. 21. Did you purchase more than one copy? A. I purchased another copy at a later date.

Q. 22. For whom? A. Purchased it for my father.

Q. 23. And at that time were you still under the same beliefs and impressions as to what you were buying as you have just testified to? A. Yes.

Q. 23. You are the Mr. Lutz who made an affidavit for complainant on December 19th, 1911, are you not? A. Yes.

Q. 24. Since that time have you been approached by a representative of either of the defendants in this case? A. I have.

1194

Q. 25. How many times? A. I was interviewed by a representative of the Brooklyn Times once.

Q. 26. Do you recall his name? A. I do not.

CROSS-EXAMINATION by Mr. Carroll:

x Q. 27. What did you buy these two dictionaries for? A. I had no good dictionary in the house and wished to have one on hand.

x Q. 28. What do you use a dictionary for? A. Merely for reference, when I have occasion to look up a word not understood by me. 1195

x Q. 29. What qualities do you value in a dictionary? A. Firstly, a reliable definition; and a full and complete definition.

x Q. 30. You knew that the book which was purchased was an abridged dictionary, of course? A. I did.

x Q. 31. And you did not expect to find absolutely full definitions in it? A. Not such as would be found in an unabridged dictionary.

1196

x Q. 32. Provided then that the definitions in any given dictionary are accurate and as full as could be expected in an abridged dictionary, would the agent or the corps of typewriters, printers, etc., which had constructed or manufactured the book make any difference to you? A. It would not.

x Q. 33. Did the word "Webster" in the title of the dictionary which you purchased indicate any-

thing more to you than that the dictionary so labelled contained standard spelling and standard definitions? A. My impression had always been that the Webster Dictionary was the best authority and in fact I have seldom had occasion to refer to any other, and for this reason I relied upon the name "Webster" as it appeared on the cover of the book as something which indicated that I was
 1198 to get the best book obtainable for the price.

x Q. 34. You stated in answer to a question of Mr. Hale's on direct examination that you believed the book which you were about to purchase, Complainant's Exhibit, Lutz's Dictionary, was published by the same company as that which published the one used by you at school. Would you have believed this to be the case had you known at the time that Webster's dictionaries are published by many different publishers?

1199

MR. HALE: Objected to as incompetent, irrelevant and immaterial and as purely hypothetical and calling for the witness's guess as to what he would or might have thought under circumstances not shown to exist.

A. Such a circumstance might have altered my opinion.

x Q. 35. Does the expression a "Webster Dictionary"
 1200 ary" mean to your mind a dictionary containing the Websterian spelling and Websterian definitions by whatever publisher published?

MR. HALE: Objected to upon the ground that it calls for a conclusion of the witness as to the meaning of the word "Websterian," which is not a recognized adjective and because it does not appear that the spelling and definitions as contained in Webster's Dictionary are any different

from the spelling and definitions in other standard dictionaries, such as the Century or the Standard.

A. I believe that any book called a "Webster" dictionary must be connected and based upon Webster's original definitions.

x Q. 36. If you were offered then a dictionary containing the same literary matter with its spelling and definitions based upon the original unabridged dictionary edited and compiled by Noah Webster, would it matter to you who published it? 1202

A. If this book was a reliable edition of the Webster Dictionary, which I know to be the best authority, regardless of who publishes it, it would not matter to me.

RE-DIRECT EXAMINATION by Mr. Hale:

Re-D. Q. 37. You spoke of Webster's original definitions. By that do you mean the definitions contained in the standard current Webster Dictionary now in general use or the definitions contained in some dictionary published more than fifty years ago? A. I believe I mean by that the definitions on which all of the genuine Webster books are based. 2103

RE-CROSS-EXAMINATION by Mr. Carroll:

Re-x Q. 38. You mean by the answer to your last question that for most words which have long been in general use, you want the same definitions which were given in the original dictionary of Noah Webster, am I correct? A. You are correct, if they be the most accurate and reliable definitions in use. 1204

DEPOSITION CLOSED.

Arthur Lutz.

Sworn and subscribed to.

John A. Shields,
Standing Examiner.

1205

Edward J. McMahon—Direct.

AFTER RECESS:

MR. HALE: Complainant offers in evidence the dictionary and the containing carton identified by the witness Arthur Lutz and the same are marked respectively "Complainant's Exhibit Lutz's Dictionary" and Complainant's Exhibit Lutz's Dictionary Carton."

1206

EDWARD J. McMAHON, a witness called on behalf of the complainant being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please give your full name, age, residence and occupation? A. Edward J. McMahon; age, 42; residence, 100 South Third Street, Brooklyn; occupation, fashion artist.

1207 Q. 2. By whom are you employed? A. Butterick Publishing Company.

Q. 3. Where were you educated? A. Brooklyn.

Q. 4. Did you attend the public schools? A. Yes.

Q. 4. About when did you quit school? A. About 1886.

Q. 5. Have you ever heard of Webster's Dictionary? A. Oh, yes.

1208 Q. 6. How long have you known of Webster's dictionaries? A. During my school days and since.

Q. 7. What is the standing and reputation of the Webster's dictionaries to which you refer as understood by you? A. I should say of the highest.

Q. 8. Have you recently had occasion to purchase a dictionary, and if so, state under what circumstance and when you did so? A. About June, 1911, I saw the advertisement of the Webster's Dictionary in the Brooklyn Times. I purchased three of them.

Q. What was there about this advertisement that attracted you to make this purchase? A. Being that it was a Webster's Dictionary and the price so cheap.

Q. 10. How did the fact that it was advertised as a Webster's Dictionary attract you? A. I don't understand the question.

Q. 11. You stated that you were attracted to make this purchase by the fact that the book was advertised as Webster's Dictionary. Please explain that answer a little more fully. A. The Brooklyn Times advertised this dictionary for sale for ninety-eight cents; and I think twelve coupons. It looked like a very good offer to me and I availed myself of the opportunity. 1210

Q. 12. At the time you made this purchase did you examine the book before buying it? A. I did not.

Q. 13. How did you know it was worth buying? A. Only that I understood it would be a Webster's Dictionary. 1211

Q. 14. At that time did you know the specific name of the publisher of the Standard Webster Dictionaries that you have said you regarded favorably?

MR. CARROLL: I object to the form of that question on the ground that this witness has not stated that he regarded favorably any particular Webster's Dictionary. 1212

(Question withdrawn.)

Q. 15. At the time you made this purchase, did you know the name of the publisher of the Webster's dictionaries which you stated had a standing and reputation of the highest? A. No.

Q. 16. What connection did you think there was between the book sold by the Brooklyn Times, and the Webster's dictionaries of high authority

1213

Edward J. McMahon—Direct.

of which you had previously known? A. I thought it was published by the same people.

Q. 17. What effect on your mind did the reputation of Webster's dictionaries have in leading you to make this purchase from the Times? A. It had the effect of making up my mind that I would buy one.

1214 Q. 18. I show you a dictionary entitled "Webster's New Standard Dictionary, and ask you if that is the identical book which you purchased from the Brooklyn Times? A. It is.

MR. HALE: The book identified by the witness is offered in evidence and marked "Complainant's Exhibit Edward J. McMahon's Dictionary, JAS. EXR, February 19th, 1912."

1215 Q. 19. Assuming that this dictionary which you bought, was originally published in the year 1904 under the name of the Crown Dictionary by publishers and editors who were in no way connected with the publishers who have continuously published Webster's dictionaries for more than sixty years and that this book is founded to a greater or less extent upon Webster's Dictionary of the year 1847, but not upon any subsequent edition of that work, such as have been issued in later years by the original publishers and their successors,—assuming those facts to be true, did you or did you not get the book you thought you were buying?

1216

MR. CARROLL: Objected to as assuming a state of facts not proven by any of the evidence in this case.

A. I did not.

Q. 20. At the time you purchased this book did you know whether or not there were any diction-

aries called "Webster's dictionaries" not published by the same publisher as the Webster's dictionaries of high reputation to which you have referred? A. I did not.

CROSS-EXAMINATION BY MR. CARROLL:

x Q. 21 Upon what did you base your impression as to the book you thought you were buying?

A. On the reputation of the Webster's dictionary. 1218

x Q. 22. What representations were made to you about that dictionary which you purchased?

MR. HALE: Objected to because the witness has not testified that any representations were made other than the advertisements in the Brooklyn Times, which are themselves the best evidence.

A. Only the representations that were in the Brooklyn Times advertisements. 1219

x Q. 23. It is stated on the title page of the dictionary that you purchased that the dictionary is based on the unabridged dictionary of the English language of Noah Webster LL.D., revised and brought up to date in accordance with the most recent eminent, English and American authorities. If it be shown that that statement upon the title page of this book is correct, did you or did you not get the book you thought you were buying?

A. I thought I was buying a Webster's dictionary. 1220

x Q. 24. If the statement that I stated to you is correct, did you or did you not get the Webster's dictionary you thought you were buying? A. If that statement made it a Webster's dictionary, I did.

x Q. 25. Then if in spite of the assumed facts stated by Mr. Hale in his question, the dictionary assumed to be described by him in that question

1221

Edward J. McMahon—Cross.

were nevertheless a Webster's dictionary, then you did get the book you thought you were buying?

MR. HALE: Objected to as once fully answered.

A. Your previous question put an "if" and now you are saying it as if it were a fact. No,
1222 I did not.

x Q. 26. Then you wish to correct your answer to my previous question, namely that you thought you were buying a Webster's dictionary? A. I do not want to correct it; I was looking for a Webster's dictionary.

x Q. 27. Whose decision as to what is or is not a Webster's dictionary do you depend upon?

MR. HALE: Objected to as irrelevant and immaterial because according to the witness's testimony he never knew that there was ever any question about what constituted a Webster's dictionary to be decided by anyone.
1223

A. I merely went by the reputation of Webster's dictionary; it had a high reputation and I didn't know there were more than one firm publishing it.

MR. CARROLL: I object to the answer as not responsive and move it be stricken out.
1224

x Q. 28. (x Q. 27 repeated).

A. Well, I will have to wait until this suit is settled.

x Q. 29. In the first questions which were asked by Mr. Hale of you, he referred repeatedly to Webster's dictionaries; what dictionaries did you have in mind when you answered those questions? A. The Webster's unabridged dictionaries.

x Q. 30. Have you any idea when they were published? A. I have now.

x Q. 31. Did you have at that time? A. No definite idea.

x Q. 32. What was your approximate idea? A. Well, a great many years ago. I could not say.

x Q. 33. When you purchased this book did you expect to get a book published by any particular publisher? A. I stated before that I thought there was only one publisher of Webster's dictionaries. 1226

x Q. 34. Did you really have the publisher in mind at all when you purchased this book? A. No.

x Q. 35. Wasn't the first time that you thought about any particular publisher in connection with this book the time when Mr. Hale discussed it with you? A. It was.

x Q. 36. Weren't you as a matter of fact in buying a Webster's dictionary looking for a book which would have the qualities of the original Webster's dictionary, by qualities, I mean spelling, definitions, and literary excellence in general? 1227

MR. HALE: The question is objected to unless Counsel will indicate what he means by the original Webster's Dictionary; that is whether he refers to the first dictionary published by Noah Webster many years ago or the standard current dictionary known in the market in recent years; the question being ambiguous. 1228

MR. CARROLL: Counsel refers to the 1847 edition of the unabridged Webster's Dictionary which as stated by the bill of complaint in this action was left at the time of the death of Noah Webster in 1843 in an advanced state of completion and

1229

Eduard J. McMahon—Re-direct.

was thereafter completed by William Webster and by Chauncey A. Goodrich, a son-in-law of said Webster.

1230

A. I was looking for a Webster's Dictionary. That would certainly contain the qualities of a Webster Dictionary. I would like to state further if I knew there had been any question of it being a Webster's Dictionary at the time I would not have purchased the book at all.

x Q. 37. What qualities do you require a Webster's Dictionary to have? A. To be published by a firm that always published the Webster's Dictionary, as I understand it.

x Q. 38. Do you understand the distinction between editing and publishing a dictionary? A. I think I do.

1231

x Q. 39. What is the distinction? A. An editor isn't necessarily a publisher, and vice versa.

x Q. 40. Is not an editor one who prepares a text while the publisher is the one who prints and issues the text? A. I so understand it.

x Q. 41. Is it more important in your mind that the contents, that is to say the text, spelling and definitions of a dictionary should be correct or that the printing should be expertly performed? A. I would want a combination of both.

1232

x Q. 42. When finding the title of Webster's Dictionary on a book does this mean to you any more than that the text and definitions are those which were made up by Noah Webster? A. It means that they have been brought up to date.

x Q. 43. Then the name Webster's Dictionary standing by itself, on a book means to you that the dictionary has been bought up to date? A. I don't know.

RE-DIRECT EXAMINATION by Mr. Hale:

Re-D. Q. 44. I presume in purchasing a diction-

ary you desired to obtain a book whose contents were accurate and reliable as to spelling and definitions and for completeness of its list of words; is that correct? A. Yes, and for its good printing.

Re-D. Q. 45. Do you regard yourself as an expert on dictionaries and qualified to determine the intrinsic excellence of a book in the respects mentioned? A. I do not.

1234

Re-D. Q. 46. When you bought this particular book from the Brooklyn Times, did you expect it to be such a reliable and accurate book? A. I did.

Re-D. Q. 47. What led you to expect that? Its being advertised in the Brooklyn Times as a "Webster's Dictionary."

Re-D. Q. 48. I show you a book entitled "The Crown Dictionary," bearing the Copyright notice, Copyrighted 1904 by Louis Klopsch, New York" and ask you whether you intended to buy that book when you bought the Webster's New Standard Dictionary from the Brooklyn Times? A. I did not.

1235

MR. HALE: The book shown the witness is marked for identification, "Complainant's Exhibit A, referred to by H. W. Baker."

MR. CARROLL: I move that question and answer be stricken out, as incompetent, irrelevant and immaterial, and not binding on either defendant in this case, no foundation having been laid for it.

1236

MR. HALE: It is admitted in the answer that the dictionaries of the defendants are substantially identical with this book and printed from the same plates.

Re-D. Q. 49. Do you of your own knowledge

1237

Edward J. McMahon—Re-cross.

know whether or not the book you purchased from the Brooklyn Times is or is not a genuine Webster's Dictionary with the high reputation which you said Webster's dictionaries enjoyed in your mind? A. I do not know.

Re-D. Q. 50. Not knowing this fact, what did you believe at the time you purchased it? A. That it was a Webster's abridged dictionary.

1238

Re-D. Q. 51. Did you believe it to be abridged from the standard current Webster's unabridged dictionary or abridged from a Webster's unabridged dictionary published more than fifty years ago? A. I believed it was from the recent books.

RE-CROSS-EXAMINATION by Mr. Carroll:

1239

Re-x Q. 52. As a matter of fact when you purchased this book did you have in mind the old, recent, or any particular edition of the unabridged dictionary as having been the fountain head from which this dictionary came? A. I thought I was buying a book up-to-date; a Webster's up-to-date.

Re-x Q. 53. And if, irrespective of its past history, the court shall decide that the dictionary which you purchased is an up-to-date Webster's abridged dictionary, will you have any reason to be dissatisfied with your purchase?

1240

MR. HALE: Objected to as incompetent and immaterial, because not calling for any fact, act or declaration and as purely hypothetical.

A. Well, I will wait for the Court to decide that.

Re-x Q. 54. Do you mean to say that you will wait for the Court to decide whether you are satisfied or not?

MR. HALE: Objected to because it is immaterial whether the witness is or was sat-

Edward J. McMahon—Re-Re-direct.

1241

isfied with the book or not, the question being whether he obtained what he intended to buy.

MR. CARROLL: This witness has repeatedly testified that what he intended to purchase was a Webster's Dictionary, and counsel has been endeavoring to find out just what the witness had in his mind when he mentioned a Webster's Dictionary. It has further been alleged that witness was deceived by representations of defendant and the question is little more in substance than a question as to whether the witness would consider himself deceived if all the representations made by defendant are found by the Court to have been true. 1242

A. I certainly do.

Re-x Q. 54. Then if the Court decides that you are satisfied, you will accept that as final? A. I merely stated that I would wait to see what the Court decided, whether I had a Webster's dictionary or not. 1243

Re-x Q. 55. And if the Court decides that you did get Webster's dictionary, then you will be satisfied?

(MR. HALE: I make the same objection.)

A. Then I will have a Webster's dictionary, I said I was trying to buy a Webster's dictionary and if the Court decides I have got one, then I have got a Webster's dictionary. 1244

RE-RE-DIRECT EXAMINATION by Mr. Hale:

Re-Re-D. Q. 56. Do you know the history of Webster's Dictionary beginning with the first edition in the year 1806? A. No.

Re-Re-D. Q. 57. Did you ever hear of the edi-

1245

E. Louise Burlingham—Direct.

tions of 1806, 1828, 1840 and 1847, until the matter was broached in this suit? A. I did not.

DEPOSITION CLOSED.

Edward J. McMahon.

Subscribed and sworn to.

John A. Shields,

Standing Examiner.

1246

E. LOUISE BURLINGHAM, a witness called on behalf of the complainant, being duly sworn, testified as follows:

Q. 1. Please state your name, residence and occupation? A. E. Louise Burlingham; residence, 78 West 94th Street; age, mature; occupation, bookkeeper for the American Law Book Company.

1247 Q. 2. Where were you educated? A. St. Paul, Minnesota.

Q. 3. In the Public Schools? A. Yes.

Q. 4. Have you heard of Webster's dictionaries in times past? A. Yes, frequently.

Q. 5. How long have you known of Webster's dictionaries? A. Ever since I went to school.

Q. 6. Did you use a Webster Dictionary at school? A. Yes.

1248 Q. 7. What is your understanding of the reputation and authority of Webster's Dictionary as a standard and reliable book of reference? A. It is the only one that I ever knew or ever considered.

Q. 8. Have you heard how it is generally regarded by the public and users generally?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial, and calling for the conclusion of the witness.

A. As far as I know, the way I feel about it.

Q. 9. Have you recently had occasion to pur-

chase a dictionary? A. Last April I purchased one.

Q. 10. Please state the circumstances under which you purchased that dictionary? A. The New York American offered a Webster's New Standard Dictionary for six coupons and eighty-nine cents, for which I purchased the book in question.

MR. CARROLL: On behalf of Cupples & Leon, I move this testimony and all testimony heretofore given about purchases made by witnesses of Webster's New Standard or Webster's New Illustrated Dictionary, as not binding on the defendant, and immaterial, irrelevant and incompetent. 1250

Q. 11. In making this purchase, what effect did your previous acquaintance and opinion have with you of Webster's Dictionary, in deciding to make this purchase? A. Why I considered it the reliable dictionary. 1251

Q. 12. Did you examine the book at or before the time you bought it? A. No.

Q. 13. You bought it then simply by its name? A. Yes.

Q. 13. What connection did you think there was between this book and the famous Webster's dictionary of which you previously heard? A. I thought it was the famous Webster's dictionary. 1252

Q. 14. Do you know even now except as you have been told whether the book you bought from the New York American is or is not the famous Webster's dictionary? A. No, I do not.

Q. 15. Do you know whether that book is or is not a genuine Webster's dictionary? A. No.

Q. 16. Do you know anything about the history of Webster's Dictionary from the beginning? A. Well, I only know what I was told the other day.

Q. 17. At the time you bought this book, did

1253

E. Louise Burlingham—Direct.

you know or had you ever heard of editions of Webster's dictionary published respectively in the years 1806, 1828, 1840 or 1847? A. No.

Q. 18. Your acquaintance with Webster's dictionaries is limited to books in use and on sale within what approximate period? A. Well, fifteen years back.

Q. 19. What was the name of the book which
1254 you bought from the New York American? A. Webster's New Standard Dictionary.

Q. 20. What priced book was it represented to be? A. Two dollars and a half.

Q. 21. Did you know whether or not there was in existence more than one series of Webster's dictionaries? A. What do you mean by "series"?

Q. 22. I mean, did you know whether there was more than one concern publishing dictionaries under the name Webster's dictionary? A. No.

Q. 23. I show you a book entitled "The Crown
1255 Dictionary" and marked for identification "Complainant's Exhibit A, Referred to by H. W. Baker", and ask you whether you intended to buy that book when you bought the book entitled Webster's New Standard Dictionary from the New York American?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial.

1256 A. No.

Q. 24. Have you ever seen or heard of that book before? A. No.

Q. 25. I suppose you wanted a dictionary in which the spelling and definitions were accurate and reliable and in which the list of words was fairly complete? A. Yes.

Q. 26. Do you regard yourself as an expert on dictionaries and qualified to determine whether any particular book is accurate, reliable and complete in these matters? A. No.

Q. 27. Upon what then did you rely as the assurance that this book was reliable and accurate and adequately complete? A. On the advertisement and the reputation Webster's dictionary had at the time that I was in school and using the book.

CROSS-EXAMINATION BY MR. CARROLL:

x Q. 28. Did the name "Webster" mean any more to you on this dictionary than that the spelling and definitions could be relied upon as correct and the list of words as complete as could be expected in an abridged dictionary? A. Certainly, I took it for the original Webster's dictionary. 1258

x Q. 29. What qualities were there in the original Webster's dictionary that you expected to find other than those that I have mentioned? A. I don't think so; I cannot see what other answer I can give. 1259

x Q. 30. I mentioned three qualities, accurate spelling and definitions, and a complete list of words, and asked you if you expected to find any other qualities in a Webster's dictionary? A. No, because I was buying a Webster's dictionary.

x Q. 31. The question at issue is, whether you got what you thought you were buying or not? If it shall be proved that the dictionary which you purchased is as a matter of fact based upon the unabridged dictionary of the English language of Noah Webster LL.D., revised and brought up to date in accordance with the most recent eminent English and American authorities, would you then be satisfied that the book which you purchased was what you expected to get? A. I don't know that I have that book. 1260

MR. CARROLL: I move to have the answer stricken out as not responsive and repeat my last question.

1261

E. Louise Burlingham—Cross.

MR. HALE: Objected to on the ground that the witness has testified that her knowledge of Webster's dictionary is limited to a period of the last fifteen years and she has nowhere shown to have any knowledge of Noah Webster's personal work.

1262

x Q. 31. (Repeated.) A. If it were proved that I really got what I thought I was buying, why then I would have to be satisfied, wouldn't I.

x Q. 32. That is not what I asked you? A. That is the way the question reads.

x Q. 32. What book did you expect to get other than a dictionary based upon the unabridged dictionary of the English language of Noah Webster LL. D. revised and brought up to date in accordance with the most recent eminent English and

1263

American authorities? A. I expected to get the Webster's Dictionary published by the original publishers of Webster's Dictionary.

x Q. 34. Why did you expect to get such a dictionary? A. Because I considered that dictionary the best dictionary published.

x Q. 35. What do you buy a dictionary for any way? A. To use.

x Q. 36. In what way? A. When I am in doubt about the spelling of any word.

1264

x Q. 37. Then if a dictionary has the correct spelling, it meets all your requirements? A. No, I should have said definitions also.

x Q. 38. Then if the book has the correct spelling and definitions, it meets your requirements? A. Yes.

x Q. 39. How did you happen to testify in this case? A. Mr. Brush, our auditor inquired of the bookkeepers whether any had purchased from the American one of the dictionaries that had been advertised, and some one of the young ladies in-

formed him that I had and Mr. Brush asked me if I would see Mr. Hale; and I saw Mr. Hale and he asked me what I thought I was getting when I purchased this dictionary and I told him the original Webster's Dictionary, and Mr. Hale then asked me if I would be willing to sign an affidavit to that effect, and I answered yes.

x Q. 40. What relation has Mr. Hale to the company where you are employed? A. I know he is associated with the company. 1266

MR. HALE: I am now and have been for some five or six years general counsel for the American Law Book Company, but have no other connection with the company.

x Q. 41. Among the allegations in the bill of complaint is one that the first Webster's Dictionary was published in 1806; when you said to Mr. Hale that you thought you were purchasing the original Webster's Dictionary, did you mean that you thought you were purchasing a copy of that dictionary? A. No, I did not. 1267

x Q. 42. What did you mean? A. The latest revision of that publication.

x Q. 43. That is to say you thought you were getting the latest revision of the great work which was originally edited and compiled by Noah Webster? A. Yes.

x Q. 44. Are you acquainted with any of the old editions of this book? A. Not particularly. 1268

x Q. 45. If it be shown that the book which you had purchased is an up-to-date revision of the great work originally edited and compiled by Noah Webster, would you then be satisfied that the book which you purchased was the one which you expected to get?

MR. HALE: Objected to as having been fully answered in previous answers on cross-examination.

1269

E. Louise Burlingham—Re-direct.

A. Certainly if it is proved to be the Webster's Dictionary, then I am satisfied.

x Q. 46. Do you understand anything more by the term Webster's Dictionary than a dictionary based upon the unabridged dictionary of the English language of Noah Webster LL. D. revised and brought up to date in accordance with the most recent eminent English and American authorities?

1270

MR. HALE: Objected to as a repetition of a question already fully answered.

A. No.

RE-DIRECT EXAMINATION by Mr. Hale:

Re-D. Q. 47. I show you a dictionary and its containing carton and ask you if that is the book which you purchased from the New York American and if that is the carton in which it came? A.

1271

Yes.

MR. HALE: The book and carton are offered in evidence and marked Complainant's Exhibit Miss Burlingham's Dictionary, and Complainant's Exhibit Miss Burlingham's Dictionary carton, JAS, EXR, February 19th, 1912."

Re-D. Q. 48. Did you buy this dictionary upon the good reputation of the Webster's Dictionary
1272 in current use in recent years or upon the reputation of the dictionary published more than fifty years ago? A. I bought it with the understanding that it was that original dictionary revised and brought up to date.

Re-D. Q. 49. Revised and brought up to date by whom,—by the same publishers as had been continuously revising and bringing it up to date or by a newcomer who has skipped over all editions

E. Louise Burlingham—Re-cross.

1273

published within fifty years and made his own revision or abridgment of the old book?

MR. CARROLL: Objected to as assuming a state of facts not proved and as unfairly stating the facts.

A. By the publishers who have continuously revised the book.

1274

RE-CROSS-EXAMINATION by Mr. Carroll:

Re-x Q. 50. When you purchased this book, did you think about the publisher at all? A. I took it for granted that the book that I was buying was the original Webster's Dictionary that I had in mind which I knew was published by Noah Webster's successors.

MR. CARROLL: I move the answer be stricken out as not responsive and repeat the question.

1275

Re-x Q. 50. (Repeated.)

MR. HALE: I object to the repetition of the question as fully and responsively answered.

A. My answer is just the same.

MR. CARROLL: This is a question which can be answered yes or no. I repeat the question.

1276

x Q. 51. (x Q. 50 repeated.)

MR. HALE: The question is objected to as having been fully, responsively and completely answered.

A. I wouldn't say no, because I actually took it for granted that this book was published by Noah

1277

Henry E. Hughes—Direct.

Webster or the successors to the Noah Webster estate.

DEPOSITION CLOSED.

E. Louise Burlingham.

Sworn to and subscribed:

John A. Shields,

Standing Examiner.

1278

Adjourned to to-morrow morning, February 20th, 1912, at 10 o'clock.

NEW YORK, February 20th, 1912.

Met pursuant to adjournment.

1279

Present—Counsel as before.

HENRY E. HUGHES, a witness called on behalf of the complainant and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation? A. Henry E. Hughes; age, 49; residence, 1024 East 95th Street, Brooklyn; occupation, manufacturer.

Q. 2. Are you employed by the F. W. Seybel Company? A. I am.

Q. 3. How long have you known of Webster's Dictionary? A. Well, since my school days.

Q. 4. About when did you finish your school days? A. 1878.

Q. 5. Where were you educated? A. Brooklyn.

Q. 6. In the Public Schools? A. Partly; also in parochial school.

Q. 7. During the time of your acquaintance with Webster Dictionary, what has been your under-

1280

standing of its reputation and standing as an authoritative and reliable work of reference? A. My understanding was that it had been adopted by the United States Government as the authoritative work. That was my impression. It had always been my impression that Worcester had been adopted by Parliament as the standard of Great Britain, and Webster by Congress as the standard by this Government. Whether or not they have since been superseded by other dictionaries, I do not know. 1282

Q. 8. Are you acquainted with the history of Webster's Dictionary from the beginning, the first edition having been published in the year 1806? A. I knew that it was published in the early part of the last Century but never knew the exact year or date.

Q. 9. What period of time approximately comprises your knowledge and acquaintance of Webster's Dictionary? A. Thirty-five or forty years. 1283

Q. 10. Have you recently had occasion to purchase a dictionary? A. Not specially.

Q. 11. Did you in the early part of the year 1911 purchase a dictionary from the New York American? A. I purchased a dictionary through an advertisement that appeared in the New York American.

Q. 12. Please state fully the circumstances under which you purchased this dictionary and what led you to make the purchase. A. I saw an advertisement in the American advertising Webster's dictionary to be purchased for a price so small to my mind, it seemed nominal. The dictionary to be purchased for the price advertised and the coupons to be cut from the American. While I hadn't any idea to buy a dictionary at all, the temptation to purchase a Webster dictionary at so small a price led me to buy one. I sent a boy to an 1284

1285

Henry E. Hughes—Direct.

office I think somewhere on Fourth Avenue with the coupons cut from the American, with the price which I think was in the neighborhood of sixty-nine cents, I am not quite sure of the price; and he brought back the dictionary.

Q. 13. I show you a book entitled "Webster's New Standard Dictionary" which bears the copyright notice as follows: "Copyright, 1911 by Frank E. Wright," and ask if that is the identical book purchased by you? A. It is.

1286

MR. HALE: The book identified by the witness is offered in evidence and marked Complainant's Exhibit, Hughes Dictionary, JAS, EXR, February 20, 1912.

Q. 14. When you purchased this book, what book did you intend to buy and believe that you did buy? A. I believed that I was buying a genuine Webster's Dictionary.

1287

Q. 15. What connection did you suppose it had with the Webster's Dictionary with which you had previously been acquainted? A. I supposed it was identical, in a new form.

Q. 16. Did you know at that time that there were both abridged and unabridged editions of Webster's dictionary? A. I did.

Q. 17. You know of course that this was not the unabridged edition of Webster's Dictionary? A. I did.

1288

Q. 18. Of what book did you suppose it was an abridgment? A. Of the original Webster's dictionary.

Q. 19. And by the "original Webster's dictionary," do you mean the dictionary in current present day use or an abridgment of an early dictionary published more than fifty years ago? A. Well, I supposed it was the Webster's dictionary—any dictionary published under the name of

"Webster" must be the original but brought up to date.

Q. 20. Brought up to date by whom? A. Naturally, by the authorized successors of the original compiler; I had never heard of a Webster dictionary that was not authorized.

Q. 30. Did you know at this time, that there was more than one concern publishing dictionaries under the name of "Webster's" dictionary? 1290
A. I did not.

Q. 31. Do you know of your own knowledge and except as you have been since told whether or not this book purchased by you from the New York American is or is not a genuine Webster's dictionary? A. I do not.

Q. 32. Did you at the time of this purchase know the name of the publisher of the genuine Webster's dictionary? A. I did not.

Q. 33. What effect on your mind in making this purchase did the use of the name "Webster's" 1291
in the title of this dictionary have? A. That it was a guarantee that I was getting the best dictionary, as far as I knew.

Q. 34. Did you make any examination of the book at or before the time you bought it? A. I did not.

Q. 35. I show you a book entitled the "Crown Dictionary" which has been marked "Complainant's Exhibit A, referred to by H. W. Baker, for identification", and ask you if you knew you were 1292
buying that book when you bought this book from the New York American.

MR. CARROLL: Objected to as assuming a state of facts not proven.

A. I did not.

Q. 36. Did you intend to buy this book shown you and entitled "Crown Dictionary"? A. I did not.

Q. 37. Did you buy more than one copy of this dictionary from the New York American? A. I did.

Q. 38. What did you do with those copies? A. I gave one to Mr. F. W. Seybel; the other I took home; I would like to qualify that "gave"; I sold one to Mr. Seybel.

Q. 39. Did you ever hear of the "Crown Dic-
1294 tionary" before it was called to your attention in this suit? A. I did not.

CROSS-EXAMINATION BY MR. CARROLL:

x Q. 40. When you purchased this book, did you think at all about the publisher? A. No, the name "Webster" was all that interested me.

x Q. 41. And what did the name "Webster" mean to you on an abridged dictionary of this kind? A. It meant to me the highest authority in
1295 a dictionary.

x Q. 42. When you speak of a Webster's dictionary as being considered the highest authority, you mean of course one of the complete unabridged Webster's, do you not? A. Not necessarily. I supposed that an abridged Webster dictionary was simply a part of the unabridged.

x Q. 43. Did I understand you correctly in answering Mr. Hale's question to say that you considered all current Webster's dictionaries as
1296 having sprung from one patriarchal edition compiled by Noah Webster? A. I believe that I said that any Webster dictionary was the same as the original Webster dictionary, but brought up to date.

x Q. 44. You spoke of the authorized successors of the original compiler in answering one of Mr. Hale's questions; will you tell me more precisely what you meant by that phrase? A. I meant somebody or persons who have acquired the

rights of the original compiler and his heirs by purchase or otherwise.

x Q. 45. What made you think that such rights could be so acquired? A. Why, the ordinary usages and customs that govern the transmission of any vested rights.

x Q. 46. What rights do you think can exist in the literary property of this kind?

MR. HALE: Objected to as irrelevant 1298
and immaterial; as calling for the opinion
of the witness on a question of law.

MR. CARROLL: The question is asked for
the purpose of finding out exactly what
was meant by the witness when he used
the phrase "authorized successors of the
original compiler", it being the impression
of Counsel that this witness has to a cer-
tain extent made his answers under a mis-
taken impression as to the law. 1299

MR. HALE: If the witness be mistaken
as to the law, which does not appear, it is
wholly immaterial as the question is what
the witness actually thought whether he
was right or wrong.

A. While I know in a general way that copy-
rights are limited, yet I have always been under
the impression, which may be wrong, that the use
of a personal name in any business could not be
used except by acquired authority. 1300

x Q. 47. In purchasing a dictionary are you
more interested in the editor or in the publisher?
A. To my mind, naturally in the editor.

x Q. 48. When you purchased this Webster's
dictionary, did you have in mind anything more
than a dictionary containing, as far as it went,
the spelling and definitions of the original un-
abridged Webster's, revised and brought up to

1301

Henry E. Hughes—Cross.

date? A. I did not give the spelling a thought; taking it for granted that I was purchasing a genuine Webster dictionary in which the spelling was bound to be correct and never having heard of a Webster Dictionary that was not genuine.

x Q. 49. Have you any reason to believe now that you did not purchase a genuine Webster dictionary? A. I have.

1302 x Q. 50. What reason? A. Information given to me by Mr. Hale.

x Q. 51. What information was that? A. The information that a firm styled Merriam & Company were the only authorized publishers and the information again conveyed to me by Mr. Hale during this examination that the dictionary which I purchased as a "Webster" dictionary was simply a reprint of a dictionary known as the "Crown Dictionary."

1303 x Q. 52. Do you know that the dictionary referred to by Mr. Hale as the "Crown Dictionary" is also a Webster's dictionary, although called by another name? A. I do not.

x Q. 53. If that be the fact, would the relation of the dictionary which you purchased to the Crown Dictionary as alleged by Mr. Hale, make any difference to your mind, as to your satisfaction with your purchase?

1304

MR. HALE: Objected to as irrelevant and immaterial, as the satisfaction of the witness with his purchase or the merits of the particular book is not the question; the question being one of identity, *i. e.* whether the witness got what he intended to get.

A. It would.

x Q. 54. How did you happen to testify in this case? A. I believe that Mr. Seybel with whom I am associated in business had his copy of the

look on his desk when Mr. Hale, who is Mr. Seybel's counsel, happened to notice it and asked Mr. Seybel how he happened to have it, and asked Mr. Seybel if he knew that he had a Webster dictionary that was not genuine in that copy. Mr. Seybel spoke to me about it, and told me that Mr. Hale would like to know if I was willing to make affidavit that I had purchased my copy under the impression that it was a genuine Webster dictionary; feeling that I had been imposed upon in the purchase, I readily agreed to make such an affidavit, and subsequently did make such an affidavit. 2200

x Q. 55. Are you connected with the Faidens Fibrous Tale Company? A. Only as a stock and bond holder.

MR. HALE: At request of opposing counsel, I state that I have no connection with the F. W. Seybel Company, except in times past I have attended to one or two small legal matters as attorney but which have been long since completely disposed of. 2207

x Q. 56. You have repeatedly used the expression "a genuine Webster dictionary," and have stated that you thought you were getting a genuine Webster's dictionary, and have further stated that you do not know of your own knowledge whether or not you did get a genuine Webster's dictionary; how are you ever going to determine whether or not you purchased the book which you thought you were purchasing? 2210

MR. HALE: Objected to as immaterial and because it is for the Court to say whether or not this book is a genuine Webster's dictionary and entitled to bear that name.

1309

Henry E. Hughes—Re-direct.

A. I have no way of judging, except by information that may be given me.

1310 x Q. 57. You stated Mr. Hughes in the affidavit which you have made for the complainant in this action, subscribed and sworn to by you December 8th, 1911, that when you purchased this book, it occurred to you that possibly the book was a reprint of the genuine Webster's Dictionary upon which the copyright had expired; did this thought which occurred to you, make you in any way hesitate in purchasing the book? A. No; because I thought that could be the only possible reason why the American could afford to sell a Webster dictionary so cheaply.

x Q. 58. It really made no difference to you whether you got a reprint or not, at that price? A. As long as it was published under the name of "Webster's."

1311 x Q. 59. You, of course, did not think that this was a reprint of the original unabridged Webster's dictionary to which you have referred? A. I don't believe I gave that a thought. I was wholly influenced by the name "Webster."

x Q. 60. Webster meaning to you a standard dictionary? A. Webster meaning to me a dictionary of the highest standard.

RE-DIRECT EXAMINATION by Mr. Hale:

1312 Re-D. Q. 60. Did anything occur to you with respect to some possible trade arrangement between the established publishers and the New York American or in regard to the coupon scheme as affording an explanation of the extremely low price at which a genuine Webster's Dictionary was offered; if so state it? A. Yes. It did occur

Harry Q. Pickett—Direct.

1313

to me that it was an advertisement scheme to increase the circulation of the American.

DEPOSITION CLOSED.

Henry E. Hughes.

Subscribed and sworn to:

John A. Shields,
Standing Examiner.

1314

HARRY Q. PICKETT, a witness called on behalf of the complainant and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your full name, age, residence and occupation? A. Harry Q. Pickett; age, 18; residence, 130 St. Felix Street, Brooklyn, N. Y.; occupation, clerk in the office of Judson & Hale, complainant's solicitors. 1315

Q. 2. On or about December 8th, 1911, do you remember calling Mr. Hale's attention to an advertisement of Webster's Dictionary then appearing in the New York American? A. I do.

Q. 3. What did Mr. Hale ask you to do then? A. Mr. Hale asked me to clip the coupons from the New York American and save them for three days; at the end of which time I was to purchase one or more of the dictionaries. 1316

Q. 4. And you did as requested? A. I did.

Q. 5. Do you remember the date when you purchased the dictionaries? A. December 9, 1911.

Q. 6. What instructions did Mr. Hale give you as to this purchase? A. I received no instructions from Mr. Hale.

Q. 7. Except simply to go to the New York American and purchase the dictionaries? A. Yes.

Q. 8. What did you do? A. I went to the man in charge of the dictionaries and told him I would

1317

Harry Q. Pickett—Direct.

like to purchase two of them, at the offices on Broadway and Park Place.

Q. 9. What passed between you and the man in charge of these dictionaries at that place? A. I asked the man if the dictionary was the genuine Webster Dictionary and he replied it is, and then added, "I suppose so."

1318 Q. 10. What else did he say if anything? A. He told me that he had sold over twenty thousand copies of this book.

Q. 11. Mr. Hale had previously told you that this book was not a genuine dictionary, had he not? A. Yes.

Q. 12. And you knew he was engaged in a law suit concerning it? A. Yes.

Q. 13. You do not claim to have been deceived by the New York American in this transaction? A. No.

1319 Q. 14. How did you come to ask the man whether or not it was a genuine Webster's Dictionary? A. Out of curiosity.

Q. 15. I show you two books and ask you whether these are the identical books which you purchased on that occasion and under the circumstances mentioned? A. They are the same books.

1320 MR. HALE: The books identified are offered in evidence and marked respectively, "Complainant's Exhibit, Harry Pickett's Dictionary, and "Complainant's Exhibit, Harry Pickett's Dictionary; flexible cover; JAS. EXR., February 20, 1912."

Q. 16. How much did you pay for each of these dictionaries? A. I paid ninety-eight cents for the flexible cover; and eighty-nine cents for the other. I am not positive, I think eighty-nine cents.

Q. 17. How many coupons did you give for these books? A. I gave three coupons of successive days for each book.

Q. 18. What did the man in charge say, if any-

Harry Q. Pickett—Cross.

1321

thing, about these coupons? A. He told me the coupons were not necessary.

Q. 19. Do you remember what you said to the man when you told him that you would like to purchase two of these dictionaries, did you call it by name? A. I did not.

MR. CARROLL: I move on behalf of both Syndicate Publishing Company and Cupples & Leon that the whole of this deposition 1322 be stricken out as incompetent, irrelevant and immaterial, and not within the issues framed, and on behalf of Cupples & Leon on the further ground that it is immaterial in view of the fact that the two dictionaries alleged to have been purchased were not published by the defendant Cupples & Leon.

CROSS-EXAMINATION by Mr. Carroll:

1323

x Q. 20. In your affidavit you stated that you asked whether the dictionary was an "original Webster's Dictionary." In answer to Mr. Hale's question you stated that you asked the clerk in the office of the American whether or not it was a "genuine Webster's Dictionary," do you remember now which of these two phrases you used? A. I don't exactly remember.

RE-DIRECT EXAMINATION by Mr. Hale:

1324

Re-D. Q. 21. By "original Webster's Dictionary" and "genuine Webster's Dictionary" do you mean the same thing? A. I do.

DEPOSITION CLOSED.

Harry Q. Pickett.

Subscribed and sworn to:

John A. Shields,
Standing Examiner.

1325

Henry H. Van Dyck—Direct.

HENRY H. VAN DYCK, a witness called on behalf of the complainant and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation? A. Henry H. Van Dyck; age, 43; residence, 63 Clarkson Street Brooklyn, New York; occupation, practising attorney, State of New York; 189 Montague Street, Brooklyn.

1326

Q. 2. Where were you educated, Mr. Van Dyck? A. In the Public School of New Brunswick, New Jersey, and by private tutors.

1327

Q. 3. Were you at any time an editor engaged in the preparation of the American and English Encyclopaedia of Law or other books? A. I was. From 1896 to 1909 I was a member of the editorial staff of the Edward Thompson Company, at Northport, N. Y., during most of which time I was engaged largely in editing legal articles for the American and English Encyclopaedia at Law and other works published by that Company.

Q. 4. Prior to becoming legal editor for the Edward Thompson Company, did you follow the profession of proof reader? A. I did.

1328

Q. 5. For what concerns or publications have you acted as proof reader? A. For the Funk & Wagnalls Company, New York City as head proof reader on the Standard Dictionary during the entire time of the setting of type on that work; for the Lockwood Press, as head proof reader, publishers at that time of the Musical Courier, Paper Trade Journal and other works. I think Paper Trade Journal was the correct title. And for about a year on the New York Sun. During the three or four years of my connection with the Edward Thompson Company I also did a good deal of proof reading on the Encyclopaedia of Law and other works published by that firm, and from time to time during perhaps the most of my

connection with that firm, I did some proof reading on these works.

Q. 6. In the course of your business as an editor, as a proof reader, and in your literary labors generally, have you had occasion to become familiar with the principal dictionaries of the English language used in this country? A. I have.

Q. 7. Please name the principal standard dictionaries of the English language in general use in this country during the period of your acquaintance with such matters? A. The Standard Dictionary, above referred to; Webster's International Dictionary; The Century Dictionary; Webster's Unabridged Dictionary; and Worcester's Dictionary are the principal ones. 1330

Q. 8. Have each of these dictionaries a recognized standing and authority as reliable reference works? A. They have.

Q. 9. How have they acquired such standing and reputation? I mean, how does any dictionary acquire reputation and authority? A. By means of the reputation of the men who compiled it, by standing successfully the test of use, and by the consensus of opinion of literary and educated persons. 1331

Q. 10. When the authority of one of the recognized dictionaries which you have referred to was invoked in support of a spelling or definition, how is that authority invoked? A. By referring to the particular dictionary by name. 1332

Q. 11. When a dictionary is referred to or cited as an authority by the name "Webster's Dictionary," do you and other members of the professions which you have followed, understand what book is meant? A. Yes, we understand that either Webster's Unabridged or Webster's International Dictionary is referred to. At the present time, the reference would be assumed to be the Webster's International Dictionary.

1333

Henry H. Van Dyck—Direct.

Q. 12. If the reference were made some years ago and before the publication of the International in 1890, what book would be understood as referred to by the name "Webster's Dictionary?"
A. Webster's Unabridged.

Q. 13. There have been various editions of Webster's Unabridged Dictionary in the following years, respectively: 1828, 1840, 1847, 1864, 1890,—
1334 which was the Webster's International Edition, and 1909, which is the Webster's New International Edition; which one of these editions do you refer to when you speak of "Webster's Unabridged Dictionary"? (My question being limited to usage within the period of your acquaintance with Webster's Dictionary.) A. To the edition published in 1864 and in common use for a good many years prior to the time when it was practically superseded by
1335 Webster's International.

Q. 14. What has been the standing and reputation during all the period of your acquaintance with it? A. Very high.

Q. 15. Do you know who has been the publisher of the Webster's dictionaries to which you have referred in your previous answers? A. The Merriams of Springfield, Mass., I think.

Q. 16. State if you know, upon what editions of Webster's Dictionary the present standing and
1336 reputation of Webster's Dictionary as an authority rests?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial and calling for a conclusion of this witness.

A. Do you mean the standing and reputation of the dictionary among people of the present generation, say people of my own age, and thereabouts?

Q. 17. That is it precisely. A. Webster's unabridged published in 1864 or thereabouts and Webster's International published in 1890, together of course, with the New International very recently published. I should say, however, that the reputation of the New International is due to and founded on the high reputation of its immediate predecessors.

Q. 18. In the course of your professional labors 1338
as a lawyer, and your labors as a legal editor, have you had occasion to observe the manner in which the Courts usually refer to Webster's Dictionary as an authority, and if so, state what it is? A. I have had occasion to so observe many times. The usual form of citation in judicial opinions is "Webster's Dict." or frequently "Webst. Dict." or simply "Webster."

Q. 19. What book do you understand and do 1339
men in your profession understand to be referred to by these various forms of citation?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial, and calling for the opinion of the witness which he is not qualified to make.

Q. 19 (continuing). I include proofreaders, legal editors, and lawyers as being within your experience.

MR. CARROLL: I object further on the 1340
ground that this question is outside the issues in the case, the principal issue being the meaning connected with the name "Webster's Dictionary" in the mind of the general public, rather than the meaning given to that name by a special or particular class of the public, and on the ground that this witness has not been qualified as an expert to testify as to the meaning at-

1341

Henry H. Van Dyck—Direct.

tached to the meaning of the words "Webster's Dictionary" in the minds of the general public.

1342

A. If the citation is a comparatively recent one, say since 1892, or thereabouts, it is understood to refer to Webster's International Dictionary; if prior to that time and during the seventies and eighties it is understood to refer to Webster's Unabridged published about 1864; a very recent citation, say within the last two years or so, in the opinion of any of our leading courts might refer to the New International, or to the International of the edition of 1890. In saying this, I am governed largely by my experience in compiling, editing and proofreading definitions in the course of my work on the American and English Encyclopædia of Law, in which work I have had very frequent occasions to verify quotations and citations from Webster's Dictionary, the Century Dictionary, and the Standard Dictionary occurring in judicial opinions.

1343

Q. 20. In the American and English Encyclopædia of Law to which I have referred, is there any department in which dictionaries are frequently cited as authority? A. Yes.

Q. 21. That is the department dealing with words and phrases, is it not? A. Yes.

1344

Q. 22. In that department, when it is intended to invoke the authority of Webster's Dictionary as distinguished from the authority of the Standard, the Century or Worcester's Dictionary, what form of citation was used? A. "Webster's Dict." or "Webst. Dict."

Q. 23. What book is specifically intended by that form of citation? A. Do you mean as cited by the editor or legal writer as distinguished from a citation of a dictionary taken from a judicial opinion?

Henry H. Van Dyck—Direct.

1345

Q. 24. The answers you have already given will cover the instances where the citation is quoted from a judicial opinion, will it not? A. Yes.

Q. 25. Then you may please limit your answer to what book was intended to be referred to when the editor himself used that form of citation. A. Webster's International Dictionary, edition of 1890, which is the Webster used in the editorial room of the Edward Thompson Company and is always referred to as "Webster" or "Webster's Dictionary." 1346

Q. 26. You have stated that Webster's Dictionary is one of the standard authorities among men in your several professions; from your experience in this matter, would a new dictionary, founded upon the 1847 edition of Webster, upon which the copyright had expired, and passing over the subsequent successive editions thereof, such as the Unabridged edition of 1864 and the International edition of 1890, and prepared by new editors and publishers in no way connected with the concern which has continuously published Webster's Dictionary since prior to 1847 and which published the successive editions referred to, have the authority and be the book which is today understood to be intended by a reference to Webster's Dictionary made today? 1347

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial, calling for a conclusion of this witness which he has not been qualified to make. 1348

A. It would not.

Q. 27. All of the Webster's dictionaries to which you have referred have been those published by the Merriam Company of Springfield, is that correct? A. That is correct.

1349

Henry H. Van Dyck—Cross.

CROSS-EXAMINATION BY MR. CARROLL:

x Q. 28. Do you know of any other Webster's dictionaries published by any other house? A. I know that a few years ago a dictionary under the name of "Webster's" or containing the name "Webster" was put on the market by the Ogilvie and I believe that I have either seen or heard of dictionaries bearing the name "Webster" put on the market with the imprint of other firms than the Merriams.

1350

x Q. 29. Do you know the name of these other publishers or the dictionaries which they published? A. I do not remember particularly any firm, except the Ogilvies, nor do I remember the title of any of these various dictionaries.

x Q. 30. Would you cite any one of the abridged Webster's dictionaries, whether published by the Syndicate Publishing Company or by Couples & Leon, or by the G. & C. Merriam Company or by any other publisher as an authority? A. I would not if I could help it cite any abridged dictionary at all; I would regard an abridged Webster published by the Merriams as authoritative, so far as it went and would cite it as an abridgment, but would not give to it the same weight that I would to the unabridged Webster's.

1351

x Q. 31. I show you Complainant's Exhibit Edward J. McMahon's Dictionary" and ask you to examine it.

1352

(Witness examines)

From your examination of that dictionary, do you believe that it is published by the same publishers as those who published the Webster's New International, Webster's International or Webster's Unabridged?

MR. HALE: Objected to as immaterial because the witness has already testified to

Henry H. Van Dyck—Re-direct.

1353

special familiarity with Webster's dictionary and its publisher.

MR. CARROLL: The question is asked for the purpose of showing that the witness and people in the same class as himself could in no way be deceived by this dictionary.

MR. HALE: The test of unfair competition and deceptive similarity is the ordinary and average purchaser of the class of goods in question and not whether persons specially familiar with the goods would be deceived. 1354

A. I do not.

x Q. 32. Is there anything about that dictionary which would lead you to so believe? A. Nothing that would lead me personally to so believe.

RE-DIRECT EXAMINATION BY MR. HALE: 1355

Re-D. Q. 33. What is there about this dictionary shown you that in view of your familiarity with Webster's dictionary would prevent you from believing that this dictionary is published by the same publishers as publish Webster's International Dictionary and the other standard Webster Dictionaries to which you have referred?

A. The title page of this book bears the imprint of Syndicate Publishing Company which I know is not the publisher of the Webster's dictionaries to which I have referred, that is one thing, and that in itself is enough to show me that it is not published by the publishers of the Webster Dictionaries to which I have referred. 1356

Re-D. Q. 34. You testified in the case of G. & C. Merriam Company against Ogilvie some years ago, did you not, in a suit involving the dictionary published by Ogilvie?

1357

Charles J. Timms—Direct.

MR. CARROLL: Objected to as improper re-direct.

A. I did.

Re-D. Q. 35. And was it in that litigation that you first heard of Ogilvie and his dictionary? A. I cannot remember now whether I first heard of it in that suit or not.

1358

Re-D. Q. 36. Has the dictionary published by Ogilvie become the standard authoritative Webster's Dictionary known and referred to by that name to-day.

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial and not within the issues of this case.

A. It certainly has not.

1359

DEPOSITION CLOSED.

Henry H. Van Dyck.

Subscribed and sworn to:

John A. Shields,

Standing Examiner.

1360

CHARLES J. TIMMS, a witness called on behalf of the complainant, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation? A. Charles J. Timms; 45 years; 731 Hancock Street, Brooklyn; occupation, accountant.

Q. 2. Have you ever heard of Webster's Dictionary? A. I have.

Q. 3. How long have you been since or how acquainted with them? A. About twenty-five years.

Q. 4. During that time, what has been your understanding of the authority and reputation of Webster's Dictionary as a work of reference? A. Well, I always understood that Webster's Dictionary was the reliable dictionary.

Q. 5. Have you known of this work as being used in the schools? A. I know it is used, certainly, in schools.

Q. 6. Do you remember whether you used it when you were at school? A. I don't recall it.

Q. 7. Have you recently had occasion to purchase a dictionary? A. Well, about the spring of last year I noticed an advertisement in the New York Journal stating that they gave a Webster's Dictionary for anyone and I believe some different prices; I clipped the coupon and went to their store on Jefferson Street in Brooklyn and they showed me three coupons at different prices. I selected one, for which I paid, I think eighty-nine cents. This book was in a paper box and marked \$2.50, called, if I remember correctly, Webster's Standard Dictionary.

Q. 8. I show you a dictionary entitled Webster's New Standard Dictionary and bearing a single copyright notice of the year 1881, and also the containing box or carton and ask you if that was the identical book you purchased and the carton in which it came? A. Yes, that is the book and the carton.

Mr. Hale: The dictionary and carton identified by the witness are offered in evidence and marked respectively "Complaint of C. J. Timms' Dictionary" and "Complaint of Exhibit, C. J. Timms' Dictionary carton," *See, See, February 20th, 1912.*

1365

Charles J. Timms—Direct.

Q. 9. What was there about the advertisement in the New York American, or Journal I believe you called it, which specially attracted you to this purchase? A. The name "Webster."

1366 Q. 10. In what way was the Webster's Dictionary attractive to you? A. Well, I considered the name "Webster" as being the best book published in the way of a dictionary and I wanted a book for the use of my boy and that is the reason I selected that one, and especially because it seemed to be sold at such a low price.

Q. 11. When you bought this book, what book did you intend to buy and think that you did buy? A. The Webster's Dictionary.

1367 Q. 12. What connection did you think there was between the book you bought and the Webster's Dictionary which you had previously known and which you say you considered the best dictionary? A. Well, I thought it was the real Webster's Dictionary brought right up to date.

Q. 13. Did you know that there were any dictionaries in the market bearing the name Webster's Dictionary which were not published by the established publishers of the dictionary which you had previously known?

1368 MR. CARROLL: Objected to on the ground that this witness has not testified that there was any established firm of publishers which he had in mind in connection with Webster's Dictionary.

A. Well, I can only answer that by saying that I only knew of one dictionary as Webster's.

Q. 14. Are you an expert on dictionaries? A. I am not.

Q. 15. Did you examine the dictionary before you bought it to see whether it was worth buying? A. No.

Q. 16. What induced you to think that it was worth buying? A. From the advertisements.

Q. 17. And what was there in the advertisement that made you think this book was worth buying? A. Well, the way that the advertisement read stating that it was a Webster dictionary and as I remember it stating that it gave definitions of certain words that were not in other dictionaries.

1370

CROSS-EXAMINATION BY MR. CARROLL:

x Q. 18. What did you think you were getting when you bought this book, Mr. Timms? A. A Webster dictionary.

x Q. 19. Have you any reason to believe that you did not get a Webster's dictionary? A. Not of my personal knowledge.

x Q. 20. Have you any reason of any kind? A. Only from information that was given to me.

x Q. 21. What information was that and how 1371
was it given to you? A. Well, I was talking with Mr. Hale one day about dictionaries and he was speaking about the advertisement in the papers and he asked me if I heard of anybody that had purchased one, and I said that I had; he then informed me that this was not the genuine Webster's dictionary, and he would be pleased to exchange this one for a genuine one. As long as I got the right dictionary, it was immaterial to me.

MR. CARROLL: I move to have that 1372
stricken out as not responsive.

x Q. 22. What do you mean by a Webster's dictionary? That is, what does the term "Webster's dictionary" mean to you? A. The correct spelling and definitions of words.

x Q. 23. Does the name suggest in your mind any one particular publishing house? A. I never heard of any of the publishers of the dictionary;

I never knew who the publishers of the Webster dictionary was.

x Q. 24. And when you purchased this book you were not looking for a book published by any particular publishing house but rather for a book which should contain correct spelling and definitions? A. Yes, I was looking for a Webster's dictionary.

1374 x Q. 25. Am I correct in assuming from your last answer that to you the term Webster's dictionary means nothing more than a dictionary containing accurate and correct spelling and definitions? A. Well, I considered the Webster's dictionary the one giving the correct spelling and definitions.

x Q. 26. So long as the dictionary which you purchased contained the correct spelling and definitions, did it make any difference to you by whom it was published? A. I can only answer that as before, that I only knew that there was one Webster's dictionary.

1375 x Q. 27. The publisher then makes no difference in your mind. A. I thought there was only one publisher.

x Q. 28. When you bought the book, did you think about the publisher at all? A. No, sir.

x Q. 29. Now that you have been informed that there are Webster's dictionaries published by a number of different publishing houses, can you state whether or not in purchasing a dictionary of this kind, you would be interested in the house by which it had been published.

1376

MR. HALE: I object as irrelevant and immaterial and because it asks the witness to guess what he would do under certain circumstances which did not exist when he made this purchase. Complainant is not bound by a mere guess as to what the wit-

Charles J. Timms—Cross.

1377

ness would or would not do in the light of his present information.

MR. CARROLL: Question withdrawn.

DEPOSITION CLOSED.

Charles J. Timms.

Subscribed and sworn to:

John A. Shields,

1378

Standing Examiner.

Adjourned to tomorrow, February 21st, 1911, at 1 o'clock.

NEW YORK, February 21, 1911.

Met pursuant to adjournment.

1379

Present: Counsel as before.

MR. HALE: Complainant exhibits to Defendants Counsel a certified copy of the certificate of incorporation of the complaint, and thereupon it is stipulated for the purpose of this case that complainant is a corporation duly incorporated under the laws of the State of Massachusetts as alleged in the bill of complaint herein.

Pending the taking of depositions in Springfield, Mass., of which notice has been given, and of depositions in Buffalo, New York, of which formal notice will be given to-day, the further taking of depositions in New York City before Standing Examiner Shields is adjourned to be resumed on one day's notice, but not before March 1st, 1912.

1380

1381 DISTRICT COURT OF THE UNITED
STATES,

SOUTHERN DISTRICT OF NEW YORK.

	G. & C. MERRIAM COMPANY, Complainant,	
	vs.	Equity 8-161.
1382	COUPLES & LEON COMPANY, Defendant.	
	G. & C. MERRIAM COMPANY, Complainant,	
	vs.	Equity 8-162.
1383	SYNDICATE PUBLISHING COMPANY, Defendant.	

NEW YORK, March 6th, 1912.

Testimony taken on behalf of the complainant,
for final hearing, pursuant to notice annexed, be-
fore John A. Shields, Esq., a Standing Examiner
of this Court, pursuant to the 67th Rule in Equity,
as amended, at the offices of Messrs. Judson &
Hale, 40 Wall Street, Borough of Manhattan, New
York, at 2 P. M.

APPEARANCES.

THE EXAMINER.

WILLIAM B. HALE, Esq.,
For Complainant.

LAUREN CARROLL, Esq.,
Of Counsel for Defendants.

John Paul Catharine—Direct.

1385

JOHN PAUL CATHARINE, a witness called on behalf of the complainant being duly sworn, testifies as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1 Please state your name, age, residence and occupation? A. John Paul Catharine; age, 45; 398 McDonough Street, Brooklyn; Occupation, Clerk, American Cotton Oil Company, 27 Beaver Street. 1386

Q. 2. Have you known of Webster's dictionaries in times past? A. Yes; I have known of them ever since I was a schoolboy.

Q. 2. What has been your understanding of the reputation and merits of Webster's Dictionary as a work of reference during this time? A. It was always my understanding that it was standard authority.

Q. 3. Where did you go to school? A. Philadelphia. 1387

Q. 4. Did you attend the public schools? A. Yes, sir.

Q. 5. Have you recently had occasion to purchase a dictionary? A. Yes, sir.

Q. 6. What book did you purchase and what were the circumstances attending the purchase? A. I purchased a Webster's New Standard Dictionary from the New York American.

Q. 7. How did you come to make this purchase? A. I saw it advertised in that paper and by the payment of eighty-nine cents with a certain number of coupons. 1388

Q. 8. About when was this? A. In April, 1911.

Q. 9. What was there about the advertisements that attracted you to make this purchase? A. I saw an opportunity of procuring an up-to-date Webster's Dictionary at a cheap price.

Q. 10. Did you examine the dictionary at or before the time you bought it? A. No, sir.

1389

John Paul Catharine—Direct.

Q. 11. Upon what did you rely as an assurance that it was a good and accurate book worth buying? A. I relied on the name of "Webster's" Dictionary.

Q. 12. Did you know at that time the name of the publisher of the Webster's Dictionary of which you had previously known and which you say you regarded as a standard authority? A. No, sir.

1390

Q. 13. Did you know at that time whether there was more than one concern issuing dictionaries under the name of "Webster's" dictionaries? A. No, sir.

Q. 14. At that time had you ever heard of a dictionary entitled the "Crown" Dictionary? A. No, sir.

Q. 15. You have referred to Webster's Dictionary as a standard authority, did you know that there were both abridged and unabridged Webster's Dictionaries? A. No.

1391

Q. 16. (Q. 15 repeated) . A. Oh, yes, I knew that.

Q. 17. When you bought this book from the New York American, I presume you did not expect to get the large or unabridged edition of Webster's Dictionary? A. No. If I am not mistaken, I think they printed the size in the paper.

1392

Q. 18. I show you a book entitled "Webster's" New Standard Dictionary, bearing a single copyright notice of the year 1911, and ask whether that is the identical book which you purchased from the New York American? A. Yes, sir.

MR. HALE: The book is offered in evidence and marked, "Complainant's Exhibit, John Catharine's Dictionary, JAS Exr, March 6th, 1912."

Q. 19. Do you know whether or not the book which you bought is a genuine Webster's Dictionary? A. No, sir.

Q. 20. Did you find the book completely satisfactory in use? A. I was somewhat disappointed in the book, as I found many words that I was anxious to learn the definitions of were not there; for example, on the first page they print that it is based upon the unabridged dictionary, and upon looking for the definition of the word "unabridged" I fail to find it in this book. Another very common word I fail to find there is "inopportune"; there were many others that I don't recall. 1394

Q. 21. Did the low price at which this book was offered and sold arouse any doubts in your mind as to whether it was a genuine Webster's dictionary? A. No, I didn't give the subject any thought.

Q. 22. Did the fact that it was offered by a newspaper in connection with a coupon scheme have any effect upon your mind? A. Yes, it did. I thought that the New York American with their opportunities were giving us a bargain. 1395.

CROSS-EXAMINATION BY MR. CARROLL:

x Q. 23. You state in answer to one of Mr. Hale's questions that you did not know whether or not the book which you purchased was a genuine Webster's dictionary; have you any reason to believe that it is not? A. I have not.

x Q. 24. What does the term "Webster's Dictionary" mean to you? A. The term "Webster's Dictionary" means to me the standard work of which I have always known. 1396.

x Q. 25. Is it connected in your mind with any particular publisher? A. No, sir.

x Q. 26. Did you at the time you purchased this book think about the publisher at all? A. No, sir

x Q. 27. Doesn't the name "Webster" in the title of a dictionary mean to you simply a text

1397

John Paul Catharine—Re-direct.

prepared by Webster? A. By "text," do you mean "book".

x Q. 28. By "text" I mean the contents of a book? A. Yes, sir.

RE-DIRECT EXAMINATION BY MR. HALE:

Re-D. Q. 29. Do you know whether or not Noah Webster is dead? A. Yes, sir.

1398

Re-D. Q. 30. When you bought this dictionary, did you expect to get a dictionary written by Noah Webster himself? A. Yes, sir.

Re-D. Q. 31. How then did you expect to receive an up-to-date dictionary?

MR. CARROLL: Objected to an not proper re-direct, and as being an effort to cross examine his own witness, and to disprove his witness's own statements.

1399

A. My answer to that is that I expected to receive Webster's up-to-date dictionary.

Re-D. Q. 32. Did you buy upon the reputation of the present day standard Webster's dictionaries, or upon the reputation of a book more than forty years old? A. I make the same answer.

DEPOSITION CLOSED.

John Catharine.

1400 Subscribed and sworn to:

John A. Shields,
Standing Examiner.

Richard W. Geldart—Direct.

1401

RICHARD W. GELDART, a witness called on behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation? A. Richard W. Geldart, age 53; residence, 133 Prospect Park, West, Brooklyn; occupation, exporter.

Q. 2. How long have you known of Webster's Dictionary? A. Well, practically all my life. 1402

Q. 3. And what has been your understanding of the reputation and merits of Webster's Dictionary as a work of reference? A. As being one of the best.

Q. 4. Have you recently had occasion to purchase a dictionary? A. I have.

Q. 5. What book did you purchase and from whom? A. A Webster dictionary from the Brooklyn office of the New York American.

Q. 6. I show you a book and ask you if that is the identical book which you so purchased? A. Yes, sir. 1403

MR. HALE: The book identified is offered in evidence and marked "Complainant's Exhibit R. W. Geldart's Dictionary, Jas, exr., March 6th, 1912."

Q. 7. What attracted you to make this purchase? A. Its cheapness.

Q. 8. Cheapness is a relative term; was there anything else that attracted you? A. As it was a question of saving coupons including a certain amount of cash, I thought it was an advertising scheme to sell goods cheap. 1404

Q. 9. Did you examine the book at or before you bought it? A. I did not.

Q. 10. Upon what did you rely as an assurance that it was worth buying? A. The fact that I did

1405

Richard W. Geldart—Cross.

not have a dictionary at the house and its cheapness.

Q. 11. What connection did you think that there was between this book and the Webster's Dictionary of which you had previously known and which you regard as one of the best? A. I thought it was one and the same thing.

Q. 12. Have you ever heard of a dictionary entitled the "Crown" Dictionary? A. I have not.

Q. 13. Did the good reputation which Webster's dictionaries had in your mind have anything to do with making you think this book was cheap at the price? A. Certainly.

Q. 14. At that time did you know the name of the publisher of the standard Webster's dictionaries which you say you have known practically all your life? A. No.

Q. 15. About when did you purchase this book from the New York American? A. I should say about twelve months ago.

Q. 16. Do you know whether or not the book you bought is a genuine Webster's dictionary? A. Impossible to say.

Q. 17. What did you expect it to be in that regard? A. I expected the unabridged edition of Webster's dictionary.

CROSS-EXAMINATION BY MR. CARROLL:

1408 x Q. 18. Is the term "Webster's dictionary" connected in your mind with any particular publisher? A. I cannot say that it is.

x Q. 19. When you purchased his book did you think about the publisher at all? A. I did not.

x Q. 20. Does the name of "Webster" in a dictionary indicate anything more to you than that the contents of that dictionary were originally prepared by some author known as Webster and are to be considered reliable contents? A. I an-

Richard W. Geldart—Re-direct.

1409

ticipated that I was buying a dictionary by Noah Webster.

x Q. 21. Have you any reason to believe that you did not get a dictionary by Noah Webster? A. I cannot say that I have.

x Q. 22. Has Mr. Hale made any statements to you about the genuineness of this dictionary? A. Not particularly. I might add that having seen a Webster's unabridged dictionary, I found this 1410 a little smaller in size.

RE-DIRECT EXAMINATION by Mr. Hale:

Re-D. Q. 23. Did you expect the book to be the one which is in current present day use or an old book first published more than forty-two years ago? A. I expected an up-to-date one.

Re-D. Q. 24. And did you buy upon the reputation of the present day Webster's dictionaries, or the reputation of a book first published more than 1411 forty-two years ago? A. I thought I was buying an up-to-date book.

DEPOSITION CLOSED.

Richard W. Geldart.

Subscribed and sworn to:

John A. Shields,

Standing Examiner.

1412

Adjourned to 2 o'clock, Thursday, March 7th, 1912.

1413

Ida B. Smack—Direct.

New York, March 9, 1912.

Met pursuant to agreement.

Present.—Counsel as before.

Ida B. Smack, a witness called on behalf of the complainant, being duly sworn, testified as follows:

1414

DIRECT EXAMINATION BY MR. HARR:

Q. 1. Please state your name, age, residence and occupation? A. Ida B. Smack; age, sixteen, residence, 271 South Fifth Street, Brooklyn; occupation stenographer.

Q. 2. Have you known of Webster's dictionary more or less in times past? A. Well, I have for a number of years, yes.

1415

Q. 3. For about how long? A. Well, since school days, quite a few years; and in business also for the last twelve years.

Q. 4. In what way have you known of it? A. As I say, using it in business.

Q. 5. Did you also use it in school? A. Yes.

Q. 6. Where did you go to school? A. Public School 19, Brooklyn.

Q. 7. During all this period what has been your understanding of the reputation and authority of Webster's Dictionary as a book of reference? A.

1416

Why I have always understood it was the only book to use.

Q. 8. Have you recently had occasion to purchase a dictionary? A. Well, the one I bought with coupons from the New York American.

Q. 9. About when did you make this purchase? A. Well, I guess it must be about a year ago.

Q. 10. It was some time in the spring of 1911 then? A. Yes, I think it was.

Q. 11. What book did you intend to buy from

the New York Tribune and think that you did buy? A. The said Webster's Dictionary.

Q. 12. How did you come to make this purchase? A. Why I saw it advertised in the paper and I knew of several others who also bought it in the same way.

Q. 13. What connection did you think there was between this book which you saw advertised and which you bought and the Webster's Dictionary which stood so high in your mind? A. Why, I thought it was one and the same thing.

Q. 14. At that time did you know the name of the publisher of the Webster's Dictionary which you had previously regarded as the high authority? A. No, I really did not.

Q. 15. Did you examine this book at or before the time you bought it? A. Why I know at the time I bought it, I noticed several things in it, that is, the pages were missing and there were several words I could not find.

Q. 16. When was this before or after you bought the book? A. Before I bought the book, and I saw it back cover.

Q. 17. Before buying the book did you examine it? A. No, I did not.

Q. 18. Upon what did you rely as an evidence that the book was a dictionary worth buying? A. Well, I supposed the name was all that was necessary.

Q. 19. What name do you mean? A. "Webster's."

Q. 20. Did you know at the time of buying this book that more than one person was publishing dictionaries using the name "Webster" as the title? A. No, I did not.

Q. 21. Until told differently what did you know or believe on that subject? A. Well, I didn't know until my brother-in-law mentioned it to me.

1421

Ida B. Smack—Cross.

Q. 22. Do you remember the full title of the book which you bought from the New York American? A. No, I do not.

Q. 23. Did you deliver up the book which you bought to be filed with the affidavit which you verified on December 30, 1911, offered in support of the motion for injunction in this case? A. Yes.

1422

It is stipulated that the dictionary which this witness purchased and has referred to, and which is now on file upon the motion for preliminary injunction herein, shall be considered in evidence without further marking, subject to objections on the part of Cupples & Leon that said dictionary is irrelevant and immaterial.

1423

Mr. Carroll: I also make an objection here to all of the testimony of this witness, and move on behalf of Cupples & Leon that said deposition be stricken out, as incompetent, irrelevant and immaterial.

Q. 24. What effect in making this purchase did the good reputation of Webster's Dictionary have? A. Well, I know I was sadly disappointed that I didn't get the real book.

1424

Q. 25. What I mean is, what part did the good reputation of Webster's dictionary and your previous acquaintance with it, have to do in causing you to make this purchase from the American? A. Well, I always felt that you could rely on Webster's Dictionary, but when I found out I didn't have the real book, I lost all confidence in it.

CROSS-EXAMINATION BY MR. CARROLL:

x Q. 26. You said that there were some pages missing? A. Several pages.

x Q. 27. Do you remember what pages those

were in the book that you purchased? A. No, I do not; I know there were some missing and several pages loose in the book.

x Q. 28. You said that you sent the book back? A. Twice.

x Q. 29. To whom did you send it? A. Why I guess direct to the American, the office boy took it over.

x Q. 30. Did you direct the office boy to point out the mistakes? A. Yes. 1426

x Q. 31. Did the American give you a new book? A. Yes, sent another one back, but I returned that also.

x Q. 32. Why did you return that? A. Well, there were two or three pages loose in that book also.

x Q. 33. Is the book which is filed in this case also incomplete? A. That I couldn't say, I never bothered to look at it. 1427

x Q. 34. Do you know whether or not the book which you finally kept and which is filed with your affidavit is what you call a real Webster's Dictionary? A. I know it is not now.

x Q. 35. How do you know it is not? A. Well, I have since found out.

x Q. 36. What have you found out? A. Well, I have shown the book I have now to people who know.

x Q. 37. To whom have you shown it? A. Well, one or two people that I know, that is all that I can tell you; we have a real Webster in the office. 1428

x Q. 38. What makes you think that the people to whom you spoke of the book knew what they were talking about? A. Well, they were competent to judge, I think.

x Q. 39. What makes them competent to judge? A. Because they have been using Webster's dictionaries for a number of years.

x Q. 40. What ground did they give for alleging

1429

Ida B. Smack—Cross.

that the dictionary which you purchased was not a real Webster's? A. Well, by referring to it I suppose.

x Q. 41. Do you really know why they said the book was not a Webster? A. Well, there were one or two words looked for in that book which could not be found, and they were in the book we have in the office.

1430

x Q. 42. What makes you think the book you have in the office is a real Webster? A. Well, I know it was a standard the one they have always had on file there.

x Q. 43. How do you know it is a standard? A. Well, I only know what they say, that is all.

x Q. 44. Who says? A. Well, the President of the concern for one.

1431

x Q. 45. As a matter of fact, except from what has been told you by people, the ground of whose belief you do not know, can you state whether or not you purchased a real Webster's dictionary? A. Well, I know I didn't.

x Q. 46. How do you know except as indicated in the last question? A. Well, as I tell you I found in our book in the office which is a Webster, what I could not find in the book I purchased.

x Q. 47. What is the size of the book in the office? A. It is a large book on a stand.

(Pointing to Webster's New International Dictionary the latest edition published by the Merriam Company, Mr. Carroll asked the following question.)

1432

x Q. 48. Was the book in your office about the size of this book? A. All I can say, is about.

x Q. 49. What reason had you for believing, if you did so believe that every word given in this book would be in the little book which you purchased?

MR. HALE: Objected to as assuming something to which the witness has not testified.

A. Why I never looked for anything in the large dictionary that I couldn't find.

x Q. 50. (x Q. 49 repeated).

A. Well, I supposed it was the same book, and I would find the same in that as I found in any other.

x Q. 51. What reason had you to believe that you were going to get a \$19 dictionary which is the price of Webster's New International Dictionary for ninety-eight cents? 1434

MR. HALE: Objected to as assuming a fact which has not been proved, namely, that the witness expected to get a book which she knew ordinarily sold for \$19.00.

A. I didn't consider the price, I thought the reading matter, and the "Webster's" name was sufficient.

x Q. 52. You said that friends of yours had bought similar books to the one which you purchased from the New York American before you did. A. Yes. 1435

x Q. 53. Had you seen any of their books? A. Only the cover; that is all; I never went through the book.

x Q. 54. You knew the general appearance and size of the book, however? A. Yes, I knew that it was a black book with a soft cover the same as I have on file.

x Q. 55. And you expected to get a dictionary like the one which your friends had bought? A. A "Webster," yes. 1436

x Q. 46. I mean of the same size and general appearance? A. Which I did get.

x Q. 57. How can you say then that you thought you were getting a book like the big book which is on a stand in your office? A. I knew it wasn't to be that size; I was looking for a "Webster's" Dictionary.

1437

Ida B. Smack—Cross.

x Q. 58. What do you mean by a Webster's Dictionary? A. Why with the name "Webster" and what Webster's Dictionary contains, the contents.

x Q. 59. Who do you think of when you speak of Webster. A. Why the only Webster who ever published the real dictionary; I didn't know there was but one.

1438 x Q. 60. Would you consider that a dictionary which contained little or nothing of the work of that Webster whom you think of when you speak of Webster was a real Webster's Dictionary?

MR. HALE: Objected to as incompetent, irrelevant and immaterial, and as calling for a conclusion of the witness.

MR. CARROLL: Witness testified that she thought she was getting a real Webster's Dictionary and Counsel is endeavoring to ascertain what she meant by that term.

1439

A. I can only repeat what I said here that I thought that I was getting the real Webster's Dictionary; that is all I can say.

MR. CARROLL: I move the answer be stricken out as not responsive and ask the question be read again.

x Q. 61. (x Q. 60 repeated.) A. No, I would

1440 not.

x Q. 62. As between two dictionaries, one of which contains little of that man Webster's work, and another which contains a great deal of that man Webster's work which would you consider more closely met your requirements of a real Webster's Dictionary?

MR. HALE: Objected to as calling for the opinion of the witness upon the issue being tried as to which she is not qualified as an

expert, and because the real question as presented to this witness is one of identity, not of opinion as to what constitutes a genuine Webster's Dictionary.

MR. CARROLL: Counsel repeats that witness has stated that she intended to buy a real Webster's Dictionary and the question is asked to aid the Court in determining just what witness meant by a "real Webster's Dictionary." 1442

MR. HALE: Further objected to as incorrectly assuming facts.

A. I would consider the one that contained a great deal of that man Webster's work to suit my requirements, as I have occasion to look at the book quite often.

x Q. 63. Do you know the difference between the author and the publisher of a book or of a dictionary? A. As a rule you refer to that before you read the book. 1443

x Q. 64. What is the difference between the author and the publisher? A. The author is the one that writes the book and the publisher finishes it up.

x Q. 65. What do you mean by finishing it up? A. Why they put the book on the market.

x Q. 66. Does the name "Webster" in a dictionary suggest to you the author or the publisher? A. Why the author. 1444

x Q. 67. Did you think about the publisher at all when you purchased this book? A. No, I did not.

RE-DIRECT EXAMINATION by Mr. Hale:

Re-D. Q. 68. In buying this book, did you want to get a dictionary that had a reputation or a dictionary without a reputation? A. One with a reputation.

1445

Isaac K. Funk—Direct.

x Q. 69. As between two dictionaries, one of which is the current edition of the regular series of Webster's dictionaries which have been published by the same house for more than sixty years, and another dictionary which skipped over all recent copyrighted Webster Dictionaries and went back and took some matter from one of the early Webster dictionaries, and published by
 1446 people who have had no connection with the development of the Standard Webster Dictionary, which one would you deem a real Webster Dictionary?

MR. CARROLL: I make the same objection as Mr. Hale did to my x Q. 62.

A. I prefer the one long standing.

DEPOSITION CLOSED.

1447

Ida B. Smack.

Subscribed and sworn to:

John A. Shields,

Standing Examiner.

ISAAC K. FUNK, a witness called on behalf of the complainant, testifies as follows:

1448 DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age residence and occupation? A. Isaac K. Funk; 72 years; residence, Business, 44-60 East 23rd Street; occupation, publisher.

Q. 2. Are you the President of Funk & Wagnalls Company? A. Yes, I am.

Q. 3. Does that company publish dictionaries? A. It does.

Q. 4. Please give the names of the dictionaries

which it publishes? A. The Funk & Wagnalls Standard Dictionary Series.

Q. 5. Does that series consist of both large or unabridged dictionaries and also smaller and abridged dictionaries? A. It does.

Q. 6. About how long have you been engaged in the dictionary publishing business? A. I began about 1890, and have continued up to the present.

1450

Q. 7. In or about 1890 did the Funk & Wagnalls Company do anything toward issuing a dictionary under the name of the "Revised Webster's Dictionary"? A. Yes, we started under that name intending to reprint the 1847 Webster's Dictionary.

MR. CARROLL: I object to all these questions as incompetent, irrelevant and immaterial and move they be stricken out.

1451

Q. 8. Did you abandon your intention to use that title upon your new dictionary and if so, please state fully the circumstances?

MR. CARROLL: I object as incompetent, irrelevant and immaterial.

A. Yes, shortly after beginning we abandoned it because we determined to make a new dictionary bringing it fully down to date; and it seemed to us that it was not wholly fair to use the name of another dictionary, which had a market value for our own production.

1452

MR. CARROLL: And I move as to the last part of that answer "and it seemed to us" be stricken out as not responsive as containing a conclusion of the witness.

Q. 9. In what way had the name "Webster's Dictionary" acquired a market value.

1453

Isaac K. Funk—Direct.

Objected to as incompetent and immaterial and irrelevant.

A. It had been on the market for a great many years, from I think 1828 and had acquired great reputation as an authoritative dictionary of the English language.

1454

Q. 10. To what book was that reputation attached in or about the year 1890 and in subsequent years? A. It was attached to the "Webster Unabridged;" it was called the "Unabridged" up to 1890 and then it was called the International.

Q. 11. And who was the publisher of the books to which you have just referred? A. G. & C. Merriam.

1455

Q. 12. How long have you known of G. & C. Merriam as publishers of Webster dictionaries? A. For a great many years, I think fully a third of a century at least, that is up to that time.

Q. 13. Has Webster's Dictionary to-day a standing and reputation as an authoritative reference work? A. It has.

Q. 14. Please say what is that standing and reputation? A. It is second only to the Funk & Wagnalls Standard; of course it stands very high.

Q. 15. And who is the publisher of the present Webster Dictionary of that high standing? A. G. & C. Merriam.

1456

Q. 16. Has your experience in the dictionary business been such that you are able to say whose book is meant by the term "Webster's Dictionary" as used by the general public to-day? A. I think that ninety-nine out of a hundred persons would think that it is meant the work that is published by G. & C. Merriam.

Q. 17. Are you aware that in recent years there have been quite a number of dictionaries issued in this country using the name "Webster" in their

title which have not been published by G. & C. Merriam Company? A. Yes, I am.

Q. 18. In view of that fact, do you still think that Webster's Dictionary means the Merriam Company's dictionaries in the public mind? A. In the mind of the general public, yes.

Q. 19. Have any of these so-called Webster dictionaries issued by publishers other than the Merriams acquired or do they now possess the reputation and authority which you have said Webster's Dictionary possesses? A. No. 1458

Q. 20. As between two dictionaries, one of which is the current edition of the regular series of editions of Webster's Dictionary published by the Merriams, who have been publishing Webster's dictionaries for over sixty years, and a new dictionary which skipped over all the current and copyrighted editions, and purported to be merely based upon the 1847 edition, and prepared by publishers and editors who had theretofore had no connection with the established series of Webster's dictionaries, which one would be a genuine Webster's Dictionary to-day in your opinion, as understood by the public to-day. 1459

MR. CARROLL: Objected to as calling for the conclusion of this witness on one of the main issues in the case, which it is for the Court to determine.

A. Unquestionably the one that had been edited by those who were chosen by the publishers of the previous edition, and published by Merriam Company. 1460

CROSS-EXAMINATION BY MR. CARROLL:

x Q. 21. What do you consider the original Webster? A. Why the original Webster, is the 1828 edition, that was the original, if you mean it in that sense.

1461

Isaac K. Funk—Cross.

x Q. 22. Was the 1847 edition published by the Merriams based on that dictionary? A. Unquestionably it was.

x Q. 23. Was the 1847 edition prepared by Dr. Webster himself?

MR. HALE: Objected to as calling for something not shown to be within the knowledge of the witness.

1462

A. I am not sure; I think Webster was dead by that time.

x Q. 24. It is alleged in the complaint and an admitted fact in this case that Noah Webster, the compiler of the 1828 Webster Dictionary which you have referred to as the original Webster, died in 1843, and that the 1847 edition was not completely prepared by him. Do you think that the 1847 edition was properly called "Webster's dictionary"? A. I do.

1463

x Q. 25. Do you think that a dictionary based on the 1847 edition of Webster's dictionary is properly called a "Webster's" dictionary? A. I think not today, in view of the many additions that have been made to the Webster dictionary from that time to the present and the impression that the word "Webster" makes on the public mind.

1464

x Q. 26. Do you think that the name "Webster" is associated in the public mind with the author of the dictionary or the publisher? A. I think it is associated with the work, that is the dictionary of today which is recognized by the name "Webster".

x Q. 27. Do you think that the general public when purchasing a Webster's dictionary think about the publisher at all? A. Sometimes yes about the publisher; but always I think in accordance with an impression that has been made on their mind by iteration and re-iteration of that name "Webster" in connection with dictionaries.

x Q. 28. How connected with dictionaries as the

name of the author or as indicating the name of the publisher? A. I think in reference to both, and then aside from these names there is a reputation that is attached to it, a something that you couldn't call either the book or the publisher, a general reputation as created by much advertising.

x Q. 29. I suppose you think a book which is largely new and different although based on the 1847 Webster, could not properly be called a "Webster's" dictionary? A. I think not; if it does not come down in the regular line. 1466

x Q. 30. Do you think that the G. & C. Merriam Company have or ought to have any particular property right in the name "Webster".

MR. HALE: Objected to as incompetent, irrelevant and immaterial.

A. I say yes, because they have helped to make the name valuable by very much advertising and thereby acquire the property right to the name. 1467

RE-DIRECT EXAMINATION by Mr. Hale:

Re-D. Q. 31. Does the present day reputation and standing of Webster dictionaries rest upon the present copyrighted books of the Merriams or upon the early 1847 or 1828 edition? A. All combined.

DEPOSITION CLOSED.

1468

Isaac K. Funk.

Sworn and subscribed to:

John A. Shields,
Standing Examiner.

Pending the taking of depositions at Boston for which notice has been given the further taking of depositions at New York is adjourned until Thursday, March 14th, 1912, at 2 o'clock.

1469

Henry A. Heymiller—Direct.

New York, March 22d, 1902.

Met pursuant to agreement.

Present—Council as before.

Henry A. Heymiller, a witness called on behalf of the complainant, being duly sworn, testified as follows:

1470

Direct Examination by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation? A. Henry A. Heymiller; age, 40; residence, Pittsburgh, Pa.; occupation, selling agents for publishers.

Q. 2. How long have you been engaged in the book-selling business? A. Fifteen years.

Q. 3. And in what location? A. For the last twelve years or so, Pittsburgh and vicinity.

1471

Q. 4. As part of your business, do you sell the Dictionary? A. Yes, sir.

Q. 5. Are you familiar with the principal dictionaries of the English language used in this country? A. I think I am.

Q. 6. Please name the principal standard dictionaries in use in this country? A. The Webster, Standard and Century.

Q. 7. Do you or have you handled and sold all of those three dictionaries? A. Yes, sir.

1472

Q. 8. What is the reputation and standing to day of Webster's dictionary as an authoritative reference book? A. It stands first among the dictionaries of the United States.

Q. 9. And how long has it enjoyed that reputation to your knowledge? A. As long as I can remember.

Q. 10. Who is the publisher of this Webster's Dictionary to which you have referred? A. The G. & C. Merriam Company, Springfield Mass.

Q 11. How long have the Merriam been the publishers of Webster's Dictionary to your knowledge? A. I think about seventy-five years.

Q 12. Have you sold Webster's Dictionary published by the Merriam? A. I have.

Q 13. What book or books are the books being sold by the Merriam by the name of "Webster's Dictionary"?

The Counsel: Objected to an answer. 1080
 Both irrelevant and immaterial; calling for a conclusion of the witness about one of the main issues in the case.

A. Among students the Merriam book only.

Q 14. From your experience in the trade, do you know what book the average purchaser or customer understands and intends by the term "Webster's Dictionary"?

The Counsel: Same objection.

1081

A. He inevitably understands the Webster to mean the dictionary published by the Merriam Company and which they recognize and have recognized as the authoritative one; the one that used in schools; the one that fathers and, as of late years of books.

Q 15. Upon what information or experience do you base your last answer? A. Upon having found such cases in large numbers among our customers and patrons. 1082

Q 16. Do you have evidence or not the average and ordinary purchaser knows the name of the publisher of Webster's Dictionary of authoritative reputation? A. I think if one is a business man, not the name of the publisher of the Webster is known.

Q 17. Please explain how it is that such a purchaser would expect to get a Merriam.

1477

Homer A. Haymaker—Direct.

ary which the Merriams publish, when he asks for a Webster's Dictionary? A. They seem universally to assume that the Webster Dictionary is a living progressive work, one that has its successive editions much the same as the World Almanac has its successive editions, the latest edition of course being the authoritative one at the moment and in buying a Webster Dictionary they naturally expect to get one of this series of Webster's of which they had known from childhood and of which they have heard from their parents or older persons.

1478

Q. 18. Are you aware of the fact that for some years last past there have been dictionaries published and sold as "Webster's" Dictionaries which were not published by the Merriams and not members of the Merriam series of Webster dictionaries? A. I am, and of the disappointment and chagrin with which buyers have subsequently found that they had not purchased one of the series of the dictionaries referred to.

1479

MR. CARROLL: I move that the last part of the answer be stricken out as not responsive beginning with the words "And of the disappointment, etc."

1480

Q. 19. State whether or not in view of your experience in the trade and in the sale of dictionaries the term "Webster's" Dictionary still means a dictionary published by the Merriams, notwithstanding the existence of these other dictionaries published under the name of "Webster," and please give the reasons for any answer you may make?

MR. CARROLL: Objected to as calling for the conclusion of the witness.

A. It does. The "Webster" as published by

Homer A. Haymaker—Direct.

1481

the Merriam Company is generally understood to be the one authoritative Webster and any reference to a Webster dictionary naturally implies the Merriam dictionary.

Q. 20. In the course of your business have you met with and canvassed persons who have bought one of these other so-called Webster dictionaries under the belief that they were obtaining or had obtained a "Webster" dictionary published by the Merriams; and if so please state your experiences in this line somewhat in detail? 1482

MR. CARROLL: Objected to as calling for a conclusion of the witness.

A. Many such cases have come to my personal attention and many hundreds more through our representatives in the field, without having made note of exact names or address, I recall two or three cases at the moment which will illustrate the point. 1483

We conduct an annual exhibit at the Pittsburg Exposition, where we have shown for a period of eight weeks the Merriam Webster. A lady called at our booth last Fall in much glee stating that not over an hour previously she had ordered one of our books, and that she had seen our book at our exhibit a few days before and had become interested; that when the agent called on her and told her that he was handling the genuine Webster dictionary, one just like the one she saw at the exposition, she readily placed her order, making a deposit of four or five dollars, to bind the transaction. Upon investigation, we found that none of our Merriam representatives had been in her neighborhood and the book she really purchased was Webster's Universal Dictionary, published by the Saalfeld Publishing Company, Akron, Ohio. She was almost positive she had 1484

1485

Homer A. Haymaker—Direct.

purchased our book, and it was with much difficulty that we convinced her of the mistake. Another young man, stenographer at the offices of the Universal Portland Cement Company, who had also seen our work on exhibit at the exposition was later visited by the Universal agent and induced to purchase a dictionary, thinking he was getting the Webster he had seen at the expo-

1486 sition.

MR. CARROLL: I move that that whole answer be stricken out, and move in particular that the testimony as to the purchasers of two Saalfield dictionaries be stricken out as incompetent, irrelevant and immaterial and not binding on either of these defendants.

Q. 21. Upon what do you base your statement
1487 that the persons referred to, thought or believed what you have stated they thought or believed?

A. Well, they stated positively that they intended to purchase and thought they were purchasing the Merriam Webster, or the one that we were showing at the exposition.

Q. 22. Please continue with other such instances, if there are any, stating what was said and done, in substance, as nearly as you can re-
1488 collect? A. There have been at least two cases which I recall where schools through the superintendant or through an officer of the board purchased the dictionaries referred to later to find that the Websters they had purchased were not of the series to which even their old and half worn out copies belonged.

Q. 23. And what series was that? A. And that series was the Merriam. One of these schools was that of Midway, Penn., and also McDonald, Pa. As soon as they had found that the books purchased were not of those bearing authority in

Homer A. Haymaker—Direct.

1489

the schools generally and to which they had been accustomed, they took steps to replace with the Merriam dictionary.

Q. 24. What was the book involved in those cases? A. Either Webster's Imperial or the Universal I am not sure which, published by Ogilvie or the Saalfeld Publishing Company.

MR. CARROLL: I move that this testimony relating to dictionaries published by Ogilvie or by the Saalfeld Publishing Company be stricken out as incompetent, irrelevant and immaterial, and not binding on these defendants. 1490

It is stipulated that the foregoing objection and motion shall be deemed taken and made to all testimony relating to books published by other publishers than the Syndicate Publishing Company or Couples & Leon, without being specifically renewed. 1491

The same objection and motion is also made on behalf of each separate defendant against testimony relating to the books published by the other defendant.

Q. 25. About when did this transaction take place? A. I should say within the last year or year and a half.

Q. 26. Are the Webster's dictionaries published by the Merriam Company used in the schools of Pittsburg and vicinity as the standard dictionary of authority? A. They are. 1492

Q. 27. Please continue with other instances of this sort? A. During the past year we have had many kicks where parties purchased either the Webster's New Illustrated Dictionary or Webster's New Standard Dictionary, thinking they were getting one of the authoritative Webster's dictionaries generally used in the schools; one

1493

Homer A. Haymaker—Direct.

such case was that of Mr. Whitmore, Traffic Manager for the Atlantic Coast Line, Pittsburg. He told us that he had purchased a copy of Webster's New Illustrated from the Pittsburg Post, a newspaper of Pittsburg, Pa., thinking he was getting a copy of the authoritative Webster's.

1494

Another case was that of a Mr. Morris who purchased one of the Post dictionaries, thinking he was getting, or at least stating that he thought he was getting the Webster which was published by the firm which published the dictionaries he used in school. He did not know for several months but what the book was one published by the older dictionary firm.

From statements made by these and many others, we know that purchasers were continually deceived into thinking that they were purchasing a Webster Dictionary of well-known authority and standing.

1495

MR. CARROLL: I move that the last part of that answer beginning "from statements made by these and many others, etc," be stricken out as not responsive and as an uncalled for conclusion of this witness.

1496

Q. 28. In the course of your business, have you found that sales of the Merriam's Webster's dictionaries were prevented by the fact that the persons canvassed had already purchased one of these other so-called Webster dictionaries; and if so, please state what has occurred on such occasions?

Mr. Carroll: Objected to as incompetent, irrelevant and immaterial, and calling for a conclusion of the witness.

A. There were many such cases, among them, all

of the instances referred to above, with the exception of the school boards, parties after having purchased the so-called Webster's even where they said they had intended to buy our book after having seen it on exhibit could not be induced to purchase a second dictionary.

Q. 29. Do they ever undertake to convince you that they have an up-to-date genuine dictionary, and if so, what do they say and do? A. They are so firmly convinced that they have purchased our book, that nothing short of absolute comparison can demonstrate their mistake. 1498

MR. CARROLL: I move the answer be stricken out as not responsive.

Q. 30. What do they say and do on such occasions? A. They say they have been deceived. They usually swear vengeance on all book agents and book firms. 1499

Q. 31. Do they produce and show you the book which they bought? A. They produce the book in positive assurance of their claim, and only by comparison page for page can they be convinced.

Q. 32. What do they point to about the book as showing that they have a genuine Webster's Dictionary up-to-date, or of a current edition? A. To quote an actual case—the party stated, “Oh, yes, it's just the same as yours; it's a Webster Dictionary; a great big book just like yours.” 1500

MR. CARROLL: I move the answer be stricken out as hearsay.

Q. 33. From your knowledge of the book-trade in general, and the dictionary branch of it in particular, with what book would an order given to-day for “Webster's” Dictionary be properly filled?

MR. CARROLL: Objected to as calling for a conclusion of the witness.

1501

Homer A. Haymaker—Direct.

A. The Merriam book which bears to-day, as it has done for seventy-five years or more, the endorsements of schools and the courts.

Q. 34. With what edition of that work would such an order be filled? A. Naturally with the current edition, just as you would get the 1912 World Almanac when an order has been placed for a World Almanac.

1502

Q. 35. Would an order given to-day for a Webster's Dictionary be properly filled by a copy of the 1847 edition of Webster's Dictionary upon which the copyright has expired?

MR. CARROLL: Objected to as calling for the conclusion of the witness.

A. Absolutely not. Any more than you would expect to get a World Almanac published years ago.

1503

MR. CARROLL: I move that the last part of the answer be stricken out as not responsive beginning, "any more than, etc."

Q. 36. What is the full title of the specific book called for by an order for Webster's Dictionary given to-day, as understood in the trade? A. If an unabridged copy were ordered, it would of course mean the current publication known as "Webster's New International Dictionary."

Q. 37. Published by whom? A. As published 1504 by the G. & C. Merriam Company.

Q. 38. And if a small, or abridged Webster's dictionary were called for, what book would be intended and understood as intended by the purchaser? A. It would be one of the abridgments of the International and one conforming to it.

Q. 39. Would an abridgment of the 1847 edition of Webster's Dictionary made to-day by new publishers and new editors, who had previously had no connection with the established series of Web-

ster's dictionaries be the book intended to-day and understood to-day as intended by an order for a small Webster's Dictionary? A. It would not, because such book would not conform to the current publication of the book which is known as the "Webster's."

Q. 40. From what source, if you know, does the purchaser of a Webster's dictionary to-day expect it to come? A. From the publishers of the well known series of Webster's dictionary, G. & C. Merriam Company. 1506

Q. 41. From your experience in this line, do you know whether or not the general public is aware of the fact that there are dictionaries published under the name of "Webster" which do not come from the same source as the well-known Webster dictionary to which you have referred?

MR. CARROLL: Objected to as calling for a conclusion of the witness. 1507

A. They do not.

Q. 42. In your opinion as a salesman of dictionaries, would it be possible in your opinion for a new dictionary to be put upon the market under the name of "Webster's" which would not be greatly benefited in the way of increased sales by reason of the great reputation which the Webster's dictionaries of the Merriam Company have acquired? A. There could not; I should say the name "Webster" means more than all testimonials or endorsements that could be gathered together, so far as they are an aid for making the sales. 1508

Q. 43. Upon what specific editions of "Webster's" dictionary does the present day standing and reputation of that work as an authority rest?

(Same objection.)

1509

Homer A. Haymaker—Direct.

A. The current edition known as "Webster's New International" backed up by the next previous edition, "Webster's International," etc.

Q. 44. Do you know whether or not any of these so-called Webster dictionaries published by others than the Merriams have made their way and obtained a recognition and standing as authorities, meaning of course general recognition and accept

1510

ance? A. From my knowledge I know that in Western Pennsylvania, Eastern Ohio, and West Virginia, no Webster dictionary other than those published by the Merriams have any standing whatever as an authority, and I know of no such reputation elsewhere possessed by the so-called "Webster" dictionary.

Q. 45. You have referred to a "Webster's New Illustrated Dictionary" or "Webster's New Standard Dictionary" as having been sold in Pittsburg and vicinity by the Pittsburg Post; state generally

1511

the nature and extent of that newspaper selling campaign? A. It lasted several months during 1911, I think summer and fall, and the size of the campaign was shown by the fact that the paper for weeks used from a third to a fourth of the front page of the paper for the exploitation of this so-called Webster, and reported from day to day the number of sales made, and finally reaching the figures in the neighborhood of forty thousand copies.

1512

Q. 46. This book was put out by this newspaper in connection with a coupon scheme? A. It was

Q. 47. Please describe the effect of this newspaper campaign on that so-called Webster's dictionaries on your business in the sale of the Merriam Webster Dictionaries? A. Since that campaign was inaugurated, sales of the Merriam Webster in our territory have fallen more than fifty per cent.

Q. 48. Do you recall any specific instances in

Homer A. Haymaker—Direct.

1513

which sales of this book by the newspaper caused you to lose sales of your dictionaries?

MR. CARROLL: Objected to as already having been answered.

A. We have had many cases where names taken at the exposition of parties interested in our books when seen reported to us in language like this—
 “Oh, I have just purchased one of your dictionaries; of course it is a small one, it will answer the purpose now.” 1514

Q. 49. And in such cases, you did not make a sale of your book? A. Otherwise good prospects proved worthless.

Q. 49. You have stated in substance that the use of the name “Webster” in the title of dictionaries not belonging to the Merriam series of established Webster dictionaries deceives the ordinary and average purchaser as to what he is buying. Suppose that such a dictionary bore upon the title page, a statement reading as follows: “This dictionary is not published by the original publishers of Webster’s dictionary, or by their successors.” in your opinion as a salesman and in view of your experience in dealing with purchasers of dictionaries and other books, what effect would such a statement have as preventing deception of the purchaser and confusion in his mind as to the identity of the thing he was buying? 1515

MR. CARROLL: Objected to as unfairly and incorrectly summarizing the witness’s testimony, and as incompetent, irrelevant and immaterial, in that it calls for a conclusion of this witness about facts which it has not been shown he is informed about, and as carrying him into the realm of conjecture. 1516

A. In the progress of our sales we know and find

1517

Homer A. Haymaker—Direct.

that this clause in the printed circulars and on the title page of their books rather inclines the purchaser to the belief that the book is published by an up-to-date present day publisher and that any other Webster or the original Webster's was published by an old firm; in other words, it leaves an impression that the Merriam Company, or the original publishers, do not keep their work up-to-date by later and successive editions of their earlier works. It does not deter people from purchasing a Webster, thinking that they are getting a genuine Webster, or one put out by the right publisher. The young stenographer referred to above saw the references in his printed circular, and yet purchased the Ogilvie book, thinking it was the genuine Webster.

1518

Q. 50. Do you know about how long the Ogilvie or Saalfeld books and advertisements have borne such a notice?

1519

(Objected to as irrelevant and immaterial.)

A. I should say for two or three years.

Q. 51. And within that period, have you known of instances of deception by the book or by the advertisements notwithstanding the fact of such notice? A. The cases mentioned above, including the school boards, belong to this class.

1520

Q. 52. Have you observed within the past few months advertisements of the thin paper edition of the Saalfeld Webster's Dictionary?

(Objected to as irrelevant and immaterial)

(Question continued). You may include in your answer a statement of whether such advertisements have borne the statement quoted? A. We have seen them from week to week.

Q. 53. State what, if any, evidences of deception you have by such advertisements?

(Same objection.)

A. Even with these advertisements containing the clause referred to we have had referred to us from the company letters from parties asking them for quotations and terms of their thin paper edition, and we found such parties with the impression 1522 that the thin paper edition of the dictionary which they saw advertised was one of the Merriam publications, notwithstanding the clause saying the book was not published by the original publishers, etc.

Q. 54. If you know of any specific instance of this, please state them fully.

(Same objection.)

A. A Dr. Mattocks, Swissvale, Pa. had this con- 1523 fusion of books. Dr. Mattocks when seen by our representative asked for quotation on our thin paper edition, and we told him we did not have a so-called thin paper edition, and he produced the Saalfeld advertisement to show us we were wrong.

CROSS-EXAMINATION by Mr. Carroll:

x Q. 55. You stated that after the advertising campaign which the Syndicate Publishing Com- 1524 pany is alleged to have carried on through the Pittsburg Post, the sales of the Merriam Webster dictionary fell off fifty per cent.; did you not?

A. Yes.

x Q. 56. Will you state what particular edition of the Merriam books fell off to this extent in its sales? A. This applies to Webster's New International, Webster's Collegiate, both thin paper and regular edition, and in fact all the editions sold by the Merriam Company.

Q 57. Did the sales of all these editions fall off to the same extent? A. Practically so.

Q 58. Did you to your knowledge ever talk with or see a purchaser of the Webster New Concise Dictionary published by Cuyler & Lyon? A. I do not know.

Q 59. Has your answer to that question been to your knowledge ever given out to or seen such a purchaser? A. I may have seen such a purchaser, but there are so many of these so-called Websters, but so identical in name that particular name of that particular publisher, I could not say exactly.

Q 60. I understand you to say that not more than one out of a thousand of the general public know the name C. & C. Merriam Company is that correct? A. I don't believe they do.

Q 61. How do you reconcile that statement with your answer to Q 58, in which you say that persons who had purchased one of the copies of Snodgrass Webster's dictionary stated positively that they intended to purchase and thought they were purchasing the Merriam Webster, and also with your answer to Q 55 in which you state that parties who had seen the Snodgrass advertisement of the Blue Paper Webster were under the impression that the book which they saw advertised was one of the Merriam publications? A. I think my use of the word "Merriam" in the first case was simply synonymous with the title of the original Webster's, the authoritative publication. That is what I meant when I made use of that term. When I made use of the term "Merriam Webster," I meant the publication of the well known dictionary, the one having authority in the schools and courts.

Q 62. Was it not wrong to say then, that the purchase of the Snodgrass book when introduced by you stated in court shows that they had purchased one of the Merriam publications? A. They probably did not use the word "Merriam."

1533

Homer A. Haymaker—Cross.

tionaries, of which he has heard and read from childhood.

1534

x Q. 71. What leads you to believe, if you do believe, that the average purchaser of the small abridged Webster dictionary has heard and read of any series of Webster's dictionaries since childhood? A. One case will illustrate this point: The young man Morris referred to in my previous testimony stated that in his home in Kentucky his father had owned a Webster's Unabridged, and he had used the same in the public schools, and he had always said as soon as he was able he would have one of these Webster's, and that he had never been able to purchase an unabridged copy but until such time he was satisfied to use a small edition of the work, which proved to be in this case "Webster's New Illustrated Dictionary," published by the Syndicate Publishing Company.

1535

x Q. 72. Is it on instances of that kind that you base the statement that the average purchaser of a small abridged Webster's dictionary has in mind a definite series of Webster's dictionaries? A. That helps to that end.

1536

x Q. 73. I think you have stated two or three times that although buyers of Webster's dictionaries do not as a rule know the name of the G. & C. Merriam Company, nevertheless they want a dictionary similar to or taken from the dictionary which they have known and used in school, is that correct? A. They want either the unabridged or one that conforms to the unabridged edition of the current date.

x Q. 74. Isn't the reason why they want one of the dictionaries mentioned by you, if they do want any of such dictionaries, the fact in the particular case, that they used one of these dictionaries in school? A. Partly that and partly from the fact that they know and feel that that edition was standard and having authority.

x Q. 75. How did they know that that edition was standard except from the fact that it was the one used in school? A. Well, from long period of years, the Webster dictionary was generally accepted as an authority for definitions or for some other qualities, and was so talked among educated and well informed people.

x Q. 76. Don't you know that there are many people whose only knowledge of "Webster's" dictionaries is gathered from the dictionary which they saw on the teacher's desk at school? 1538

MR. HALE: Objected to as assuming a fact not proved and almost unbelievable.

A. I do not. Webster was too generally known for that.

x Q. 77. What did you mean by "Webster" in your answer to the last question? A. The Webster dictionaries as published by the G. C. Merriam Company. 1539

x Q. 78. If in a particular case, Chicago, for example, Webster's dictionaries published by some other publisher than the G. & C. Merriam Company, for example Laird & Lee, were approved by the Board of Education and in general use in the schools, what dictionary do you suppose the ordinary purchaser of one of the ninety-eight cent Webster's dictionaries, who had gone to school in Chicago would expect to get? A. He might easily expect to get the Merriam book, for a single school board's action ought to have little weight as against universal custom and use. 1540

x Q. 79. Don't you believe that an important part of the so-called custom or use of a dictionary is the use in the schools? A. It plays its part, of course.

x Q. 80. Upon what do you base your opinion, if it is your opinion that a person, whose chief ac-

1541

Homer A. Haymaker—Re-direct.

quaintance with Webster's dictionaries was made in a school where Laird & Lees' dictionaries were being used would expect if purchasing a Webster's dictionary to get one of the Merriam publications?

MR. HALE: Objected to as assuming a fact not proven and as calling for a mere guess upon supposed facts with which the witness is not at all acquainted.

1542

A. A school board's action in adopting and endorsing any particular book or text book may or may not represent public sentiment or the public's sense or judgment regarding the merits of the book, and consequently might not be accepted by the citizenship at large, and for that reason when he got ready to purchase a dictionary he would be more apt to purchase the Merriam Webster because of the fact that it was more representative of the judgment of the people as a standard work.

1543

x Q. 81. Then you think that the average purchaser of an abridged Webster's dictionary relies more on his own judgment than on the judgment of the school board when he went to school? A. There are certainly many cases where his own judgment and the judgment of citizenship would be safer than that of a transitory school board.

1544

MR. CARROLL: I move that the answer be stricken out as not responsive; the question is not what would be safer to do, but what the average purchaser would rely on.

x Q. 82. (x Q. 81. repeated.) It would depend altogether on the excellence of the school board.

RE-DIRECT EXAMINATION by Mr. Hale:

Re-D. Q. 83. You have testified that the ordinary and average purchaser does not know that the

Homer A. Haymaker—Re-direct.

1545

name Merriam is the name of the publisher of the Webster well known dictionary, do they know as a matter of fact the books which the Merriam Company publish and are they acquainted with the reputation of such books? A. They know the Webster dictionaries from the unabridged of '64 to the present time, and know them as authoritative.

DEPOSITION CLOSED.

1546

H. A. Haymaker.

Subscribed and sworn to:

John A. Shields,
Standing Examiner.

IT IS HEREBY STIPULATED by and between counsel for the respective parties, to avoid calling H. M. Condit as a witness, that the affidavit of said H. M. Condit, verified the 18th day of December, 1911, and used upon the motion for the preliminary injunction herein, shall be here inserted in the record with the same force and effect as if the same were a deposition regularly taken by question and answer. 1547

It is further stipulated that at the times referred to in the said affidavit, said H. M. Condit was acquainted with G. & C. Merriam Company as the publisher of Webster's dictionaries. 1548

It is further stipulated that said affidavit is subject to all objections other than that the testimony was not given in the regular way by a witness called and examined before the examiner.

1549

*H. M. Condit—Direct.***Affidavit of H. M. Condit**

CIRCUIT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

1550

G. & C. MERRIAM COMPANY,
Complainant,*vs.*SYNDICATE PUBLISHING COMPANY,
Defendant.Affidavit of
H. M. Condit.STATE OF NEW YORK,)
City and County of New York,) ss.:

1551

H. M. CONDIT, being first duly sworn, deposes
and says:

1552

I am the secretary of The Stationers Board of Trade, having a place of business at Nos. 97-99 Nassau Street, in the City of New York. On the 17th day of February, 1909, or just prior thereto, The Stationers Board of Trade received in its regular mail from the Saalfeld Publishing Co., of Akron, Ohio, a leaflet advertising Webster's Imperial Dictionary. Being desirous of purchasing Webster's Dictionary for the office, and also a copy for my own personal use, I wrote and sent to G. & C. Merriam Company a letter of which the following is a copy:

New York, February 17, 1909.

G. & C. Merriam Co.,
Springfield, Mass.

Gentlemen:—

Will you kindly let the writer know what is your

H. M. Condit—Direct.

1553

hard pan figure for a Webster's Imperial Dictionary, or such a one as you think would be proper for the writer to have at his home with stand combined; also for copy of one for our office use here, and oblige,

Yours very truly,

The Stationers Board of Trade,

H. M. Condit, Sec'y.

C. R.

1554

I wrote said letter to G. & C. Merriam Company under the impression that the dictionary referred to in the Saalfeld Pub. Co. leaflet was the same dictionary as G. & C. Merriam Co. published and which I thought was being handled by the Saalfeld Pub. Co. I thought it best to go direct to headquarters, viz., to the Merriams, with a view of getting the best and lowest price possible quoted.

H. M. Condit. 1555

Subscribed and sworn to before me
this 18 day of December, 1911.)

J. P. Berg,
(SEAL) Notary Public,
Kings Co.

Cert. filed in N. Y. Co.

Adjourned to Wednesday, March 27, 1912, at 2:30
o'clock P. M.

1556

1557

Irving Putnam—Direct.

NEW YORK, March 27th, 1912.

2:30 P. M.

Met pursuant to adjournment.

Present: Counsel as before.

IRVING PUTNAM, a witness called on behalf of the
 1558 complainant, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation. A. Irving Putnam; age, 60; residence, 1 West 64th Street, New York; business, publisher and bookseller.

Q. 2. And your business is located in New York City? A. New York City.

1559 Q. 3. How long have you been actively engaged in the book business? A. Somewhat more than forty years.

Q. 4. In the course of that business have you handled and sold dictionaries? A. Yes.

Q. 5. Please name the standard dictionary authorities in general use in this country. A. Webster's dictionary in its various forms, the Standard Dictionary, the Century Dictionary; those are the three important American authorities of to-day; the other important authority is Worcester,
 1560 and there are several important English books—Stormouth, Skeat and the Oxford Dictionary.

Q. 6. What is the standing and reputation of the Webster Dictionary, as a work of reference? A. Its standing is of the highest; it may be considered on the whole the dictionary of most universal reference of any in this country.

Q. 7. How long has it enjoyed this reputation,

approximately? A. Well, ever since I have been in business.

Q. 8. Who is the publisher? A. The Merriam Company of Springfield.

Q. 9. Is there any dictionary published under the name of Webster by any one other than the Merriams which enjoys the standing and reputation which you have said the Merriam Company's Webster Dictionary has? A. No.

1562

Q. 10. Has your experience in the book trade been such that you know what book is intended or wanted when a customer asks for a Webster's dictionary? A. Yes.

Q. 11. What book is intended by such an order by the average and ordinary purchaser of dictionaries?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial and as calling for a conclusion of the witness concerning unexpressed thoughts in the minds of third persons not present.

1563

A. Almost invariably some of the Webster series is wanted.

Q. 12. What do you mean by the Webster series? A. Why, the Merriams publish a series of dictionaries in various forms; there is the New International, and there are the various editions of the International, running down to the various small school dictionaries.

1564

Q. 13. If I understand you correctly, then, whether the orders were for a large or a small Webster dictionary, one of the Merriam publications would be intended? A. Yes, unless distinctly specified to the contrary.

Q. 14. I presume you know that there has been various editions, both abridged and unabridged, of Webster's dictionary, beginning with the year

1565

Irving Putnan—Direct.

1806, and published at intervals since that time?

A. I have never seen any of the earliest; the earliest I have ever seen, I think, was an edition published in the late forties.

Q. 15. What edition of Webster's dictionary is intended to-day by the average purchaser and understood to be intended by the trade when a Webster's dictionary is called for?

1566

(Same objection.)

A. Always the latest edition of the particular series wanted.

Q. 16. And upon what particular books or editions does the present day reputation of Webster's dictionaries rest?

1567

MR. CARROLL: Objected to as calling for a conclusion of this witness about a question which he has not been qualified to answer.

A. The reputation has been a growing and cumulative one increasing to a considerable extent from year to year as the work was built up and developed by the best modern scholarship that was put into it.

1568

Q. 17. What connection or relation exists in the mind of the average and ordinary purchaser between the large unabridged Webster dictionary and the small or abridged Webster's dictionaries?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial and as calling for a conclusion of this witness concerning unexpressed thoughts of third persons not present.

A. The smaller dictionaries are considered as abridgments of the large work, but with ex-

actly the same nature and authority of statement; the smaller dictionaries leave out certain of the illustrations upon which the authorities are given but give the conclusions from those statements.

Q. 18. And how about the source or origin of these books? A. Why, they are all based absolutely upon the larger book.

Q. 19. I mean, do, or do not, ordinary purchasers expect a small Webster's dictionary to come from the same concern as makes the large dictionary? 1570

MR. CARROLL: The same objection as above, and also as leading.

A. I don't think the average purchaser looks very carefully for the name of the publisher or the origin of the book they are buying; I think they assume that the Webster's dictionary is one of the series of the Webster books which they have grown up to consider as the great authority on spelling and definitions, and while scholars and experienced persons would look for the origin of the book they were buying in the direction of inspecting the imprint of the publisher, the average buyer, especially of the lower priced dictionary, does not take up very seriously such a question. 1571

Q. 20. In the light of your experience in these matters, would an order for a small Webster's dictionary be properly filled today by a book based upon the 1847 edition of Webster's dictionary, upon which the copyright has expired, but produced by editors and publishers who had theretofore had no connection with the established Webster's series, and please give the reasons for any answer you may make? 1572

MR. CARROLL: Objected to as calling for a conclusion of law.

1573

Irving Putnam—Direct.

MR. HALE: On the contrary the question goes merely to the identity of the book in question.

A. In our establishment and in most book stores, we should not consider an order properly filled that did not supply some one of the regular latest editions of the Merriam book. In a great
 1574 many concerns, such, for instance, as the big mail order establishments in Chicago, an order saying, "Send me the best fifty-cent Webster dictionary" would be filled properly in the judgment of the people managing that business, if any dictionary with the name "Webster" on and selling for fifty cents was supplied.

Q. 21. What effect upon the probable sales of a new dictionary would the use of the name "Webster" as a whole, or a part of the title,
 1575 have? A. It would give it a distinct advantage before the public.

Q. 22. In what way? A. The name "Webster" being in the minds of the general public in this country connected with the series of books that has been to them for three generations the standard authority in all matters pertaining to the English language, a dictionary offered to the average person with the name Webster on, would mean that the book was
 1576 connected with this great authority for which they had always had respect, and on that account, of course, the average intended purchaser would be much more apt to buy a book with the name of "Webster" on it, than with a name that meant nothing to them. For instance, today the name "Worcester" on a dictionary would be of comparatively little value commercially, for general sale, although fifty years ago Worcester's dictionary and the name "Worcester" as con-

nected with dictionary material stood far higher before scholars and the general public than did Webster. Worcester's dictionaries, however, have not been revised and developed during the last thirty years, and the consequence is that the word "Worcester" does not now carry with it any respect or prestige; "Webster" on the contrary, having been connected with a series of books not only kept before the public for the last half century, but, constantly developed, enlarged and revised and brought up-to-date by an enormous expenditure of time and scholarship, stand before the public in such a light that they have increased confidence and respect for the series, and naturally assume that anything in the nature of a dictionary having the magical word "Webster" on it, is entitled to their confidence. 1578

Q. 23. As a person familiar with the book trade, what in your opinion would be the effect upon the mind of the ordinary and average purchaser as tending to distinguish and identify the book if a dictionary entitled "Webster's" dictionary also bore the following notice on its title page—"This dictionary is not published by the original publishers of Webster's Dictionary, or by their successors." Please answer fully? A. Such a notice would affect the value of the book commercially to a certain extent; the extent depending to some degree upon the intelligence of the prospective purchaser. To many people such a notice would mean nothing, so long as the name "Webster" is there. If in addition to that notice was added the statement "This dictionary is based upon the "Webster's" Dictionary of 1847 with some additional material put in by the publishers, and has nothing to do with the modern series of Webster's dictionaries;" if such a notice as that were put in such a form the buyer would see it and understand it, the book 1579 1580

1581

Irving Putnan—Direct.

1582

1583

1584

would be rejected by even a person of very moderate intelligence. The value of Webster today is something quite apart from the value of Webster as connected with the various editions of Webster's dictionaries long out of copyright. The name "Webster" today, in my opinion, stands for a series of reference books that have been built up from what was merely a germ in the form of the original "Webster's" dictionary. These books have intended to keep pace with the rapid development of the English language and their value as authorities depends upon the accuracy and scholarship with which they have kept this pace. The first question that an intelligent person asks about any book of reference is "Is it the latest edition; does it embody the latest word, not merely of any hack writer who has been engaged to fill out a certain amount of space, but of the best scholars of the day." In point of fact, the original Webster's dictionary as put forth by Noah Webster had no standing whatever among scholars; it was full of all kinds of linguistic absurdities. The value of the work today is due to the fact that scores of scholars of the highest standing in the community have worked at this series of books for nearly half a century, expunging the original bad and unauthoritative things in Webster's book, and substituting and adding from time to time such material as was necessary to have it represent the scholarship of the day in which it was published. Statements in any reference books of 1840 or 1850 or 1860, even if quite worthy of respect at the time when they were issued would often have to be reversed in an edition of 1900 or 1910 in order to be accepted as representing up-to-date scholarship.

MR. CARROLL: I move that the whole of

the answer beginning with "If in addition, etc.," be stricken out as a voluntary statement on the part of the witness and in no way responsive to the question.

Q. 24. I take it that you draw a distinction between reprints of ordinary literary works upon which copyright has expired and the case of dictionaries and other reference works; if so, please state it as briefly as you can. 1586

Objected to as leading.

A. It seems to me that is a very decided difference. The copyright having expired, there is no injury to reputation or prestige in reprinting a volume of Longfellow's Poems, or a story of Edgar Poe, or a volume of essays by Irving. If the material is reprinted correctly and without garbling it, there can be no harm, except the commercial competition of the sale of such reprints with the former copyrighted editions. It is quite a different matter when a reprint is made of an early edition of a book of reference. Such reprint issued with a current date, unless it is emphasized in the clearest way that the book is but a reprint of an edition half a century out of date, cannot but do injury to the sale of the legitimate revised editions and is, as a matter of course, a gross deception of the public that buy it. It is quite evident that the use of the word "Webster" is to take an unfair advantage and to use unfair competition with the publishers of the modern work; otherwise, some other name would be used. If it was meant merely to make such use as under the law was permissible, that is, to make use of material of which the copyright has expired, it would have been easy to indicate that. But, this of course, would have rendered 1587
1588

1589

Irving Putnam—Cross.

the book so issued of no commercial value; the only commercial value that attaches to it, is from the connection in the mind of the public of the word "Webster" with the modern series of Webster's dictionaries.

1590

MR. CARROLL: I move that the whole of this answer be stricken out as irrelevant and immaterial, inasmuch as there is no consideration in this case of any reprint of any book; further, I move that the answer beginning with "Cannot but do injury, etc.," be stricken out as not responsive, as a voluntary statement by this witness as to his conclusion on questions of fact and law.

Q. 25. I believe you did not give the full name of the firm or house with which you are connected; please do so? A. The concern is G. P. Putnam's Sons, a New York State Corporation, of which I am the Secretary.

CROSS-EXAMINATION by Mr. Carroll:

x Q. 26. You understand, Mr. Putnam, of course, this suit involves a small abridged Webster's dictionary, which is sold in varying bindings for from forty-eight to ninety-eight cents; what use do you suppose the ordinary purchaser of such a dictionary intends to make of it? A. The ordinary use made of any book of reference.

x Q. 27. Can you be a little more specific? A. To use it for finding or ascertaining the correct spelling of words and their correct definitions; and to find the meaning of such unaccustomed words, reference to which the reader may have seen in the course of his daily reading.

x Q. 28. How complete or authoratative a book do you think the ordinary purchaser expects to get for forty-eight cents? A. Well, it depends a good

deal upon the purchaser; it is a matter of temperament; some might expect to get the New International for forty-eight cents; every one, however, I think, expects to get a work equally authoritative, however extended or elaborate may be the matter upon which the authority is based.

x Q. 29. Do you think that the average purchaser of such a book considers at all the origin of the book or its publisher? A. Not very much; he considers the name of it, much more than the publisher; it would be only the scholar or the experienced bookman or the bookseller that looks into and really understands the various points in connection with the publication of the volume. 1594

x Q. 30. How much more do you suppose the average purchaser of such a book knows about the various editions of Webster's dictionary? A. Why the average purchaser of cheap books doesn't know anything to speak of; but I think anyone who is sufficiently interested to buy a book for household reference is also interested in securing what he considers the latest up-to-date authority. On that point there is very little difference between the average inexperienced person and the cultivated person or the scholar. 1595

x Q. 31. Do you suppose that the average purchaser of such a dictionary has to any extent your conception of Webster's dictionary as a series? A. Yes. I think so, for most of the plain people of the country have been to school and in most of the schools and in nearly all of the schools in fact, during the various grades, had to make use of some one or other of the smaller Webster dictionaries, beginning with the primary, and the common school, academic, and so on. 1596.

x Q. 32. Do you believe that the ordinary purchaser of such a book whom you refer to as the "plain people" have in mind as you have, a series of revisions dated 1828, 1847, 1864, 1890, 1909,

1597

Irving Putnam—Cross.

etc.? A. I don't think any of the purchasers of to-day have any conception of the book or series of books further back than fifty years; I think they assume that the small school editions used by them are merely the epitome of the exhaustive work kept revised and just as accurate and up-to-date as the large work. They assume that if their teacher who has the International dictionary on his desk for reference and gives them the abridged book to work from, that he is not giving them the book which will not agree as to statements with the exhaustive work.

1598

x Q. 33. Then you would say that the average purchaser of such a book would be getting what he expected to get if the book irrespective of its origin was in fact an accurate epitome of the English language and agreed substantially with the large unabridged Webster which he saw on his teacher's desk? A. To a certain extent; and yet, if the same average buyer could have the purchase or the proposed purchase of such a book accompanied by an absolutely true statement of fact, as to the origin of the book, and as to the reason for connecting the word "Webster" with it, I think a large percentage of such purchasers would turn the book down. A book that is presented to the public entirely anonymously except for the use of the magic word "Webster" means to the buyer that there is authority for connecting the word "Webster" with it, and no other name of any kind is attached to this book excepting the name "Webster."

1599

1600

(Witness refers to Complainant's Exhibit Richard W. Geldart's Dictionary, JAS. EXR., March 6th, 1912.)

MR. CARROLL: "Webster's" New Standard Dictionary, published by the Syndicate Publishing Company in the form abandoned before this suit was instituted. I move that the whole of said answer beginning

“and yet if the, etc.,” be stricken out as not responsive and that the answer beginning with a “a book that is presented” be stricken out as assuming a state of fact not proved.

x Q. 34. Suppose that the only acquaintance which a certain purchaser of one of these small abridged Webster's dictionaries had with Webster's dictionaries before his purchase of this book, was through the use in school of an unabridged Webster's dictionary published by some other publisher than the G. & C. Merriam Company, what book do you suppose such a purchaser would expect to get? A. I don't know. 1602

x Q. 35. What should you suppose?

MR. HALE: I object to what the witness supposes.

A. I could not answer such a question intelligently, because the hypothesis seems to me too flimsy and indefinite. 1603.

x Q. 36. In the schools in Chicago, it is a fact that Webster's dictionaries published by Laird & Lee both abridged and unabridged are in general use in the schools; what book do you suppose a student in one of these schools would expect to get when purchasing a Webster's dictionary? A. I do not know, because I have no experience whatever with Chicago conditions. 1604

DEPOSITION CLOSED.

Irving Putnam.

Subscribed to:

John A. Shields,

Standing Examiner.

Adjourned to Monday, April 1st, 1912, at 11 A. M.

1605

William W. Newberry—Direct.

NEW YORK, Monday, April 1st, 1912.
11 o'clock A. M.

Met pursuant to adjournment.

Present—Counsel as before.

Adjourned to to-morrow, Tuesday, April 2nd,
1606 1912, at 11 o'clock A. M.

NEW YORK, Tuesday, April 2nd, 1912.
11 o'clock A. M.

Met pursuant to adjournment.

Present—Counsel as before.

1607

WILLIAM W. NEWBERRY, called and sworn as a witness on behalf of the complainant, testifies as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation? A. My name is William W. Newberry, residence, St. Louis; age, 42; occupation, financial agent.

Q. 2. Did you recently purchase a dictionary entitled "Webster's" New Standard Dictionary
1608 from the St. Louis Post Despatch, a newspaper of that city?

MR. CARROLL: Objected to on behalf of Cupples & Leon as incompetent, irrelevant and immaterial.

A. Some months since I was manager of the bond department of the American Trust Company and the Title Guarantee Trust Company, St. Louis,

and having noticed the "ad" in the Post Despatch I suggested to the secretary of these companies that I would like to have him purchase one of the dictionaries for my desk.

Q. 3. And the dictionary was accordingly purchased? A. Yes.

Q. 4. What was there in the advertisement that attracted you to make this purchase? A. The fact that it was a Webster Dictionary and that it appeared to be offered at a remarkably low price. 1610

Q. 5. About how long have you known of Webster's Dictionary? A. Ever since I can remember.

Q. 6. And what has been your opinion of its reputation and standing as an authoritative reference book? A. It was the very best.

Q. 7. Did this good reputation have anything to do with causing you to make this purchase from the Post Despatch? A. Yes, had it been any other dictionary I probably would have paid no attention to it at all. 1611

Q. 8. At the time this purchase was made, did you know the name of the publisher of the authoritative standard Webster Dictionary to which you have referred? A. No.

Q. 9. Did you then know whether there were more than one publisher issuing dictionaries described as Webster dictionaries? A. I did not.

CROSS-EXAMINATION by Mr. Carroll:

1612

x Q. 10. Is the term "Webster dictionary" connected in your mind with any particular publisher? A. No, it is not.

x Q. 11. Did you in fact think about the publisher at all when you purchased this book? A. I did not.

x Q. 12. What does the name Webster in the title of the dictionary suggest to you? A. All

1613

William W. Newberry—Cross.

that a dictionary should mean, one where the spelling was correct, definitions accurate, etc., probably I can best explain it by saying that it bears the same relation that the name Smith & Wesson bears to a revolver; when you need it, you need it badly.

x Q. 13. The name Webster in the dictionary then means to you a reliable and accurate dictionary? A. It does and one of authority.

x Q. 14. And the name Webster in the title of a dictionary suggests certain qualities of contents rather than method of publication, does it not? A. Yes.

x Q. 15. And if in fact you purchased under the name Webster a dictionary which was an accurate and reliable dictionary did you purchase what you expected to get? A. I did not purchase what I expected to get, no more than would I trust it than I would a revolver that I presumed when I purchased it was made by Smith & Wesson, and found it was not; I would lose confidence in it, although it might shoot as accurately.

x Q. 16. I presume a Smith & Wesson revolver means to you a revolver manufactured by the Smith & Wesson Company? A. It does.

x Q. 17. You have stated, however, that the name Webster in a dictionary did not suggest any particular publishing house, nor was it connected in your mind with the origin of the dictionary. Why then do you consider the cases analogous?

MR. HALE: Objected to as incorrectly summarizing the witness' testimony.

A. It is connected in my mind with the original Webster and the one that we learned to respect in school.

x Q. 18. The name Webster in a dictionary therefore suggests to you the author of the dic-

tionary; is that correct? A. Well, it would be either author, compiler or the title, I don't know which; it would be just a Webster dictionary.

x Q. 19. What reason have you to believe that you did not get a Webster dictionary, if you do so believe? A. I learned incidentally that the dictionary put out by the Post Dispatch was not what I would term the genuine Webster.

x Q. 20. What would you term the genuine Webster? A. The original dictionary that I have been accustomed to use in school and revised and brought down to date. 1618

x Q. 21. What reason have you to believe that the dictionary which you purchased is not in fact based on the original Webster and revised and brought down to date? A. I have no reason to doubt it except from what I have learned that it was not what I would understand as a genuine Webster, when one feels that it is a substitute one naturally loses confidence in it. 1619

x Q. 22. What basis is there for your statement that it is an imitation or substitute except that some one may have said to you that it was such an imitation or substitute? A. No other basis; I never examined the book.

x Q. 23. As far as you know then, of your own knowledge, you may have purchased exactly what you expected to get? A. Yes.

x Q. 24. Can you state any more accurately than you have already stated just what you expected to get in order to assist the Court in determining whether or not you were deceived? A. I tried to make it clear that I expected to get a dictionary that was either edited, revised or published by the same interests that put out the dictionary of thirty years ago. 1620

x Q. 25. What do you mean by the same interests? A. The same as I would mean by saying the same interests that manufactured Smith &

1621

William W. Newberry—Cross.

Wesson of thirty years ago; the original people are possibly all dead or out of business, but the same general character of the weapon is still being turned out.

1622

x Q. 26. Did it in fact make any difference to you whether or not exactly the same publishers were producing this book so long as the book which you purchased was based upon the same Webster as that upon which the thirty-five year old book which you speak of was based, and so long as it was carefully brought up to date? A. It would make a difference for the reason that I would look upon it as an imitation of the genuine.

x Q. 27. What connection is there in your mind between genuineness and the publisher who we all know has to do simply with the mechanical construction of the book?

1623

MR. HALE: Objected to as incorrectly stating that publishers of dictionaries have only to do with the mechanical printing of the book, whereas the fact is such publishers supervise and control the compilation even of the literary matter contained in such dictionaries.

1624

A. It has to do the same with a dictionary as with any other article that one would purchase, and one would naturally expect to be protected in that purchase.

x Q. 28. Suppose you were offered an exact reprint of the Webster dictionary which you have in mind as being authoritative, but published by some other publisher, would you consider this a genuine Webster dictionary? A. I would not have the same confidence in it, no more than I would in a revolver that was made on exactly the same lines as Smith & Wesson, but which was not the genuine Smith & Wesson.

Louis B. Robinson—Direct.

1625

x Q. 29. What do you expect to use a revolver for? A. For shooting.

x Q. 30. What does the name Smith & Wesson on a revolver mean to you? A. Thoroughly well made, accurate shooting weapon.

x Q. 31. What do you expect to use a dictionary for? A. To ascertain the correct way of spelling words and for definitions.

x Q. 32. And what does the name Webster in a dictionary mean to you? A. That the book is correct. 1626

x Q. 33. Of your own knowledge, you do not know whether or not the book that you purchased is correct, do you? A. I do not.

Deposition closed.

William W. Newberry.

Subscribed and sworn to:

1627

John A. Shields,

Standing Examiner.

LOUIS B. ROBINSON, called and sworn as a witness on behalf of the complaint, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation? A. My name is Louis B. Robinson; my age, 37; residence, Plain City, Ohio; occupation, general agent for the G. & C. Merriam Company. 1628

Q. 2. How long have you been engaged in the business of selling dictionaries? A. For eleven years.

Q. 3. In what general locality? A. Ohio.

Q. What is the reputation and the standing to-

1629

Louis B. Robinson—Direct.

day of the Webster dictionaries published by the Merriam Company as authoritative reference books? A. They are universally accepted by Courts and schools as standard of authority.

Q. 5. How long have these books enjoyed that reputation? A. As long as I can remember.

Q. 6. Are you acquainted with any other dictionaries in use in this country besides the Merriam's Webster dictionary? A. I am acquainted with the Standard, the Century, and the Murray's dictionary as it is called. I think that is the name of that New English dictionary.

Q. 7. Do you or have you in times past sold these dictionaries which you have just mentioned? A. I have.

Q. 8. From your experience in the dictionary business, what books are the books known to-day in the market by the name of Webster dictionary?

1631

MR. CARROLL: Objected to as calling for a conclusion of this witness as to a question of fact which he is not qualified to answer.

A. Those published by the G. & C. Merriam Company.

Q. 9. And how long has this been true to your knowledge?

MR. CARROLL: Same objection.

1632 A. Perhaps twenty years.

Q. 10. From your experience in the trade, do you know and if so, state it, what book the average purchaser or customer understands and intends by the term Webster's Dictionary?

MR. CARROLL: Same objection.

A. He expects to get one of the regular dictionaries published by the G. & C. Merriam Company.

Q. 11. What effect does the good reputation of

the Merriam Company's Webster's dictionaries have in making sales? I want to know how that reputation operates upon the minds of the ordinary purchasers of dictionaries?

MR. CARROLL: Objected to as calling for a conclusion of this witness as to the mental operations of the persons not present and unidentified.

1634

A. The G. & C. Merriam Company have kept their dictionaries up to such a high standard and these books have been accepted by the courts and schools as the standard of authority so long, that the name Webster attached to a dictionary leads them to believe that it is a standard authority, and it is very much easier to sell because of the name Webster and the reputation which it has maintained.

Q. 12. To what extent do the average and ordinary purchasers know the name of the publisher of the Webster's Dictionary of established authority? A. A large percent of the school people know the publishers of the genuine Webster's dictionary, but ninety percent of the public at large do not know the name of the publishers.

1635

Q. 13. Please explain how it is that the public in general, nevertheless, expect to get a dictionary which the Merriams in fact publish, when they ask for a Webster's Dictionary?

MR. CARROLL: Objected to as assuming a state of facts in no way proved and contrary to the actual conditions.

1636

A. Because they have used these books in school, find them in the court rooms, and this confidence has led them to believe that the name Webster on a dictionary would bring them a genuine Webster Dictionary or the one which they always used in school with its revisions and so forth.

Q. 14. Are you aware of the fact that for some

1637

Louis B. Robinson—Direct.

years last past there have been dictionaries published and sold under the description of Webster's Dictionary which were not published by the Merriam Company and which were not members of the Merriam series of Webster's dictionaries? A. I am.

Q. 15. Can you state whether or not in spite of that fact that the ordinary and average purchaser nevertheless expects to get one of the dictionaries published by the Merriams under that name when he gives an order for a Webster's dictionary?

1638

MR. CARROLL: Objected to as assuming a state of facts not proven.

A. In my experience in soliciting for the dictionary I find that the name Webster to more than ninety percent of my prospective patrons means the authoritative Webster's dictionary as used by the courts and the schools.

1639

Q. 16. And that dictionary is published by whom? A. By the G. & C. Merriam Company.

Q. 17. In the course of your business have you met with and canvassed persons who have bought one of these other so-called Webster's dictionaries under the belief that they were obtaining or that they had obtained a Webster's dictionary published by the Merriams, and if so, please state your experiences in this line fully including what was said and done upon the occasions to which you refer?

1640

MR. CARROLL: Objected to on behalf of each of the defendants independently unless it is shown that each one of these aforesaid instances or any of them were connected with the books of either of these defendants; further objected to on the ground that it is hearsay.

A. I have; only a few weeks ago I called upon a

superintendent of schools, Mr. Dougan of Lore City, Ohio, who was a prospective subscriber for one of the Webster's new International dictionaries. I had spoken with him once before, regarding the purchase of a dictionary, and he had asked me to call again. When I returned, he informed me that he had recently purchased a dictionary through the *Jeffersonian*, a newspaper of Cambridge, Ohio, and he showed me a copy of the Webster's New Standard Dictionary. When I showed him the publishers of this dictionary and that it was not of the regular Webster series, he said he had not thought to look for the name of the publishers, but took it that because it was a Webster's dictionary, that it was the one accepted by the courts and the schools. 1642

MR. CARROLL: I move on behalf of the Cupples & Leon Company that the answer so far given be stricken out as irrelevant and immaterial, inasmuch as the dictionary mentioned was not published by the Cupples & Leon Company. 1643

A. (Continuing.) When I went to soliciting in the town, I found a number of people who had purchased this dictionary thinking that they bought a dictionary which was of the same authority as the one that their children used in school.

Q. 18. How do you know they thought that? A. They said so. 1644

Q. 17. Please continue your answer, stating what was said and done? A. I usually asked them if they knew who the publishers of the regular Webster's dictionaries were, and they said that they did not; I asked them if they knew that this book was not published by the same company who had published the Webster's International or the one which was used in their schools, and they said that they supposed that because it was a Webster's dictionary that it was a reliable and authen-

1645

Louis B. Robinson—Direct.

tic work, and bought it because of its name Webster.

1646

I remember distinctly of calling upon a minister who, when I had told him my business, said that he had exactly the same dictionary. When I began to question him, I found that he had the Webster's Universal Dictionary, and would not believe that this was not the same book as the one I was showing him until comparison was made. He then said that he thought it was the dictionary known as the Webster's International Dictionary, but that he had forgotten the exact title, and said that he supposed that he was purchasing it simply through the Saalfield Company of Akron, acting as agent for the regular publishers of the International.

1647

MR. CARROLL: Then I move on behalf of both defendants that this testimony with reference to Webster's Universal Dictionary be stricken out as irrelevant and immaterial in that said dictionary is not published by either of these defendants.

1648

A. (Continuing.) I have in mind another instance of a teacher in Ross County, Ohio, where I called at his school house, and after stating my business, he said that he had exactly the same dictionary as the one I was showing him. After questioning him, I found that he had purchased the Webster's Imperial dictionary. The Webster's Imperial is published by the Saalfield Publishing House of Akron, Ohio. I could not convince him that he did not have the Webster's New International Dictionary published by the G. & C. Merriam Company. I left him, stating that I would send him literature and circular matter explaining the difference between the books and asking him to write me. I later received a letter from him stating that he saw very clearly that his book was not the Webster's dictionary which he

Louis B. Robinson—Direct.

1649

expected to get or thought he had, but that he paid so much money for it, and that even though he had been deceived, he would have to get along with it.

MR. CARROLL: Same motion made on behalf of both defendants.

A. (Continuing) I have met a great many people who purchased dictionaries of different editions by different publishing houses, very similar to the instances above, who thought that they were getting books made by the same company as the one which I was showing them, although they did not know the name of the publisher, and they told me so in conversation with them. 1650

Q. 18. In your opinion, basing your answer on your experience in the sales of dictionaries, would a statement in the following form, to wit: "This dictionary is not published by the original publishers of Webster's dictionary or by their successors." printed upon the title page of a dictionary published by some one other than the Merriam, have any tendency or effect in preventing deception of the public by means of the name Webster in the title of such dictionary, and please give the reasons for any answer you may make? 1651

MR. CARROLL: Objected to as incompetent, immaterial and irrelevant, first, assuming a state of facts not proved, namely, that the name Webster in the title of a dictionary is deceptive and secondly calling for a conclusion of this witness, as to a question which is for the Court alone to determine. 1652

A. I do not think that it would keep one in fifty from purchasing it, because I have seen many instances where the purchaser had never seen this statement, owing to the fact that it would be tucked away in some obscure place in the diction-

1653

Louis B. Robinson—Direct.

ary and even when they did see it, they did not understand it or know its purport.

DEPOSITION CLOSED.

Louis B. Robinson.

Subscribed and sworn to:

John A. Shields,

Standing Examiner.

1654

MR. HALE: Complainant offers in evidence certified copies of the following trademark registrations, being the trademarks alleged in the amendment to the bill herein, to wit:

	18,449	Sept. 23, 1890.
	26,273	Mar. 26, 1895.
	59,188	Jan. 1, 1907.
	59,189	" " "
	59,192	" " "
	59,193	" " "
1655	59,191	" " "
	59,473,	" 8, "
	59,130	" 1, "
	59,187	" " "

The foregoing exhibits bound together in a single pamphlet are received in evidence and marked Complainant's Exhibit Certified Copies of Trademark Registrations.

1656 Complainant offers in evidence against the defendant Syndicate Publishing Company, certain advertisements of the so-called Webster's New Standard Dictionary, bound in a pamphlet and numbered from 1 to 18 both inclusive.

The same is received and marked in evidence as Complainant's Exhibit Additional Advertisements of defendant's Book.

Notice is hereby given that Complainant's *prima facie* case is now closed.

MR. CARROLL: All rights to make motions of all kinds reserved.

DISTRICT COURT OF THE UNITED STATES,

1657

SOUTHERN DISTRICT OF NEW YORK.

G. & C. MERRIAM COMPANY,
Complainant,

AGAINST

CUPPLES & LEON COMPANY,
Defendant.

Equity
8-161.

1658

G. & C. MERRIAM COMPANY,
Complainant,

AGAINST

SYNDICATE PUBLISHING COMPANY,
Defendant.

Equity
8-162.

1659

Testimony taken on behalf of the complainant, for final hearing, pursuant to notice, before John E. Livermore, Esq., a Special Examiner of this Court, pursuant to the 67th Rule in Equity, as amended, at the office of the Special Examiner, No. 11 Niagara Street, in the City of Buffalo, N. Y., on the 26th day of February, 1912, at 10 o'clock in the forenoon.

1660

PRESENT:

The Examiner.

APPEARANCES:

WM. B. HALE, Esq. (New York City), for Complainant;

LAUREN CARROLL, Esq. (New York City), of counsel for the Syndicate Publishing Co., and also Cupples & Leon Co.

1661

Miss Halla Wells—Direct.

IT IS HEREBY STIPULATED by and between counsel for the respective parties herein, that the depositions to be taken before Special Examiner Livermore at Buffalo, N. Y., may be taken stenographically by a competent stenographer appointed by the Special Examiner, and subsequently transcribed into typewriting.

1662 And it is further stipulated that the signatures of the respective witnesses (other than Mr. Porter) be, and the same hereby are, waived.

MISS HALLA WELLS, a witness called on behalf of the complainant, having been first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Halé:

Q. Please state your residence and occupation? A. Iroquois, N. Y., and I am Matron at the Thomas Indian School at that place.

1663 Q. Is that a school supported by the State of New York? A. Yes.

Q. How long have you been connected with that school? A. It will be nineteen years in April next.

Q. In times past have you been more or less acquainted with Webster's dictionaries? A. Why, we have used Webster's dictionary at the institution. That is the only one we have.

1664 Q. For about how long? A. Ever since I have been there, I guess.

Q. What has been your understanding of the authority and reputation of Webster's dictionary as a work of reference? A. I supposed it was one of the first.

Q. And you have always regarded it so since you have known of it? A. Yes.

Q. Some time in the year 1911 did you purchase a dictionary from the "Buffalo Evening News," a newspaper of this city? A. Yes.

Q. Please tell us how you came to do that, and what you did? A. I came in, and there were several of the students and some of the employees of the institution that wanted dictionaries, and I purchased seventeen, I think it was, and took them out, for the school.

Q. How did you come to go to the Buffalo Evening News for these dictionaries? A. I saw the coupons in the News, and took the coupons and went to the News office for them. 1666

Q. By what name did the News advertise the dictionaries which you bought? A. Webster's.

Q. Did you at that time know the name of the publisher of the Webster's Dictionary which you had previously used in the school? A. No, I don't think so; no.

Q. What dictionary did you intend to buy from the Buffalo Evening News? A. Webster's Dictionary.

Q. Did you know at that time that there was more than one publisher issuing dictionaries under the name of "Webster's Dictionary"? A. No. 1667

Q. What relation did you think there was between the dictionary offered by the Buffalo Evening News and the Webster's dictionaries of which you had already known? A. I supposed they were the same.

CROSS-EXAMINATION by Mr. Carroll:

Q. You stated, in answer to the last question, that you supposed they were the same. By that do you mean the same in contents? A. Yes. 1668

Q. When you said that you wanted to buy a Webster's dictionary, what did you have particularly in mind; in other words, what does the term "Webster's Dictionary" mean to you? A. I don't know just what you mean.

MR. HALE: If you don't understand the

1669

Miss Halla Wells—Cross.

question, say you don't understand it, and he will ask you again until you do understand it.

Witness: I don't understand just what you meant.

Q. I repeat the question, then. Does the term "Webster's Dictionary" mean anything more
1670 to you than a dictionary having good spelling and standard definitions in it? A. Why, I suppose they are the best authority, if that is what you mean.

Q. Does not Webster's Dictionary really mean to you a book originally compiled by Noah Webster and brought up-to-date? A. Yes.

Q. By any one of a numbers of editors? A. I suppose so.

Q. Have you in mind any one particular editor
1671 as having brought the book up-to-date? A. No, sir.

Q. Is it connected in your mind with any particular publisher? A. No.

Q. You buy the book, then, on the reputation of the original compiler, Noah Webster? A. Yes.

Q. You state in your affidavit that you believe that the books which you purchased "belonged to the series of famous Webster dictionaries"? A. Yes.

Q. How did you happen to put those words
1672 into the affidavit? A. Well, of course, the man, the publisher, we have always known—that is, Webster's Dictionaries—as a standard dictionary.

Q. Are those your own words? A. Yes. I was here with Mr. Livermore when I gave the affidavit.

Q. Did you have in mind really what you speak of here as a "series" of books? A. Yes, yes.

Miss Halla Wells—Re-direct.

1673

Q. What did you mean exactly by that term?
(No answer).

MR. HALE: Read the question.

MR. CARROLL: Let it go. It is not really material. That is all.

RE-DIRECT EXAMINATION by Mr. Hale:

Q. I want to identify this dictionary. I show you a dictionary entitled "Webster's New Standard Dictionary," and ask you if that is the book which you purchased from the Buffalo Evening News? (Hands witness book.) A. Yes. 1674

MR. HALE: I offer the book in evidence which is identified by the witness, as "Miss Halla Welles' Dictionary." (So marked in evidence.)

The Referee:

Q. You stated you had purchased several. Were all the others copies? A. Yes. 1675

Mr. Hale:

Q. Is this the box or carton in which the dictionary came? (Showing box to witness). A. Yes.

MR. HALE: I offer that carton or box in evidence as complainant's Exhibit "Miss Halla Welles' Dictionary Carton." (So marked in evidence.) 1676

MR. CARROLL: I object to the whole of that deposition, on behalf of both defendants as incompetent, irrelevant and immaterial; and, particularly on behalf of Cupples & Leon Co. as immaterial from the fact that the book is not published by Cupples & Leon.

1677

Levi E. Porter—Direct.

LEVI E. PORTER, a witness called on behalf of the complainant, having first been duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. Please state your full name, age, residence and occupation. A. Levi E. Porter, Buffalo N. Y.; 46 years old.

1678 Q. How long have you been engaged in selling Webster's dictionaries for G. & C. Merriam Company? A. About ten years.

Q. Have you, during that period, personally sold dictionaries to purchasers and canvassed prospective purchasers in order to sell the Merriam Company's dictionaries? A. Yes.

1679 Q. From your experience in the trade do you know what book the average purchaser or customer understands and intends by the term "Webster's Dictionary"? A. Yes.

Q. What book do the public in general intend and understand by the term "Webster's Dictionary"?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial. The witness is not qualified to speak as to that; and it is calling for the conclusion of the witness.

1680 A. Webster's Dictionary, published by G. & C. Merriam Company.

Q. Give your reasons for that answer and the experience upon which it is based. A. It is the dictionary that is generally used in the schools, has been for years, as a standard; and we often find people who state it is the dictionary that they were brought up on, and even go so far as to state the names of the publishers.

Q. Can you say whether or not the people gen-

erally know the name of the publisher of the standard Webster Dictionaries which have been in use in the schools, and as stated by you, for a long period? A. I think they do.

Q. They do? A. Yes.

Q. What is the name of that publisher? A. G. & C. Merriam Company.

Q. Have you come across instances where people did not know the Merriam name but did know and want the Merriam book; if so, please state your experience along that line? A. I have. Do you want instances? 1682

Q. Not just now. Where a large or unabridged dictionary is the one in contemplation, and the term "Webster's Dictionary" is used, what book do the public generally intend by that term? A. Webster's Dictionary, as published by the Merriam Company, in its modern form.

Q. Can you give the name of the specific editions? A. The original Webster's Unabridged; the Webster's Unabridged, Authentic; the Webster's International; Webster's New International. 1683

Q. Are you trying to give the full list of editions? A. That is what I understood you to ask me.

Q. You misunderstood my question. The question is, what edition of the large or unabridged Webster's Dictionary do the people mean to-day when they use the term "Webster's Dictionary"? A. Webster's Dictionary, as published by the G. & C. Merriam Company. 1684

Q. And can you give the date of those editions that are meant to-day? A. Yes.

Q. Please do so. A. 1847, 1864, 1890, 1910.

Q. Would an order given you to-day for a large Webster's Dictionary be properly filled by a dictionary of the edition of 1847? A. No, sir.

Q. Then, what did you mean in your last answer

1685

Levi E. Porter—Direct.

in saying that the dictionary meant to-day by the term "Webster's Dictionary" was the 1847 edition? A. The entire series published by the G. & C. Merriam Company, the entire series of Webster's Dictionaries.

Q. Why would not an order given to-day for a large Webster's Dictionary be properly filled by the unabridged dictionary of the edition of 1847?

1686 A. Because it is not brought up-to-date and modernized.

Q. How long since you have known of the edition of 1847 having been bought and sold in the trade, except possibly as a second-hand book? A. I couldn't answer that; I don't know.

Q. During all your experience has that been a current book on sale in stores? A. Nothing only in reprint form.

1687 Q. Suppose a small or abridged Webster's Dictionary is the book in contemplation, what book do the public generally understand is intended by "a small Webster's Dictionary"? A. One of the abridgements, published by the G. & C. Merriam Company, of the Webster's large dictionary.

Q. What effect has the use of the Merriam's Webster's dictionaries in the schools of this country had upon the public mind in this respect?

1688 MR. CARROLL: Objected to because it has in no way been proved that Webster's Dictionary, as published by G. & C. Merriam Company, is used in the public schools.

Witness: Read the question.

(Question read).

A. It has lead them to consider it as a standard dictionary.

Q. When they see a book entitled "Webster's

Dictionary" what connection exists in their minds between the Webster's Dictionary used in the schools and the particular dictionary in question?

MR. CARROLL: Objected to as calling for a conclusion of this witness as to what exists in the minds of the third persons not present.

Q. And give your reasons therefor.
Witness: Read the question.

1690

(Question read).

A. It is my experience they are the same.

Q. From your experience do you know what is the reputation of the Webster's dictionaries published by the Merriam Company, as standard and authoritative reference works?

MR. CARROLL: Objected to as incompetent, irrelative and immaterial, and calling for the conclusion of this witness.

1691

A. I do.

Q. What is the reputation of those dictionaries in that respect?

MR. CARROLL: Same objection.

A. As the standard authority.

Q. Upon what do you base your answers that you know that Webster's Dictionary is regarded as a standard authority? A. From a large amount of experience in canvassing prospective customers.

1692

Q. Including what they have stated to you upon such occasions? A. Yes.

Q. From your experience in the sale and canvassing for Webster's dictionaries, please state whether or not it would be possible for any dic-

1693

Levi E. Porter—Direct.

tionary to be put upon the market, with the word "Webster's" as a prominent and distinctive part of its title, which would not be greatly benefited in the way of sales by the good reputation of the Merriam's Webster's dictionaries?

MR. CARROLL: Objected to as calling for the conclusion of the witness.

1694 A. I don't think it would be possible.

Q. Will you give your reasons a little bit for your answer? A. Because I found so many people who bought dictionaries under the name "Webster" supposing, from their statements, that they had secured the Webster's Merriam's dictionaries.

Q. And by what name does the ordinary person refer to the dictionaries published by the Merriam? A. Webster's.

1695 Q. What effect does the addition of some other word such as "New Standard" or "Intercollegiate" have in that connection? A. In my experience it has had no effect at all.

Q. In the course of your business have you, upon occasion, met persons who had bought one of the recent publications of dictionaries using the name "Webster" in the title but which was not published by the Merriam Company, thinking they had purchased the Webster's Dictionary which is published by the Merriam Company; if so please state such instances as you can recall, somewhat in detail?

1696

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial; calling for the conclusion of the witness as to what was in the minds of third persons, and also as not binding on these defendants, unless it be shown that the books mentioned in the question were published by one or the other of them.

A. I have. Do you want me to specify a list?

Q. Take up instance after instance. A. Some time ago, some three or four years ago, I have in mind Judge Stevens of Rochester, as one of them; and Mr. Haley of this city, and Miss Laura Haggerty, I think it is, and still another just comes to me, Louis Westenfelder, living in this city. I don't think I can recall any more, although there are a great many of them.

1698

Q. Please give the details of each of these transactions, including the book which the person named had purchased, and what was said and done at your interview with them? A. It has been some time ago since I interviewed Mr. Stevens, but I had called on him and showed him the dictionary. Webster's Dictionary, and in the intervening time between my first and second call, he had purchased George W. Ogilvie's Dictionary,—I think it was an Imperial, might have been a Universal, I can't remember now; Webster's Imperial or Webster's Universal Dictionary, I am not sure which. Later we sold Mr. Stevens a genuine book.

1699

Another case I have in mind is Mr. Haley. He purchased a dictionary, and I saw him, had a talk with him, and he said he had already purchased a book just like mine; in fact, he was looking at Webster's Merriam Dictionary, the latest edition. He said to me he had purchased one just like it. I asked him where he got it, and he said he purchased it of a concern in Akron, Ohio, I believe. I called his attention to the fact that Merriam Co. were publishing a genuine Webster's Dictionary in Springfield, Mass. Later he saw the difference between the books, and purchased one of the genuine books, giving up the dictionary which he had, which was Webster's Universal Dictionary.

1700

MR. CARROLL: I renew my objection, on

1701

Levi E. Porter—Direct.

the ground it is incompetent, irrelevant, immaterial, and on the further grounds stated above, and move that the answer to the question be stricken out.

Q. Did you see that book in his possession at the time of your conference with him? A. I did—not at the time of the first conference.

1702 Q. At any conference? A. Yes.

Q. Do you remember the case of Mr. George O. Wagner, of 938 Ellicott Square, Buffalo? A. I do, but not definitely.

Q. What do you remember about it? A. I remember that he,—I don't know that I could tell. I would hate to go into detail on that, because it is very hazy in my mind.

Q. I show you an affidavit which you made for the complainant in this case, verified the 13th day of December, 1911, and which has been filed in support of complainant's motion for a preliminary injunction, and ask you to look at it and see if it refreshes your memory as to the Wagner incident? (Hands printed affidavit to witness.) A. Yes.

Q. Please state the fact, as you recollect it, with your memory refreshed? A. I simply called on Mr. Wagner and showed him the dictionary; and when I called again he said he had already bought a Webster's Dictionary.

1704 Q. What had he, in fact, bought? A. He claimed he had bought the same as I had. I looked at it and found it was a Webster's Universal Dictionary.

Q. About when did this occur? A. That must have been three or four years ago.

Q. Do you recall the case of a Mr. C. F. Waldron, who lives in Rochester? A. Yes. That was a case very similar to Mr. Wagner's.

Q. What book had he purchased? A. If I re-

member correctly, it was Webster's Universal, or Webster's Imperial; I don't remember definitely which.

Q. To refresh your memory I show you this same affidavit previously shown you, and call your attention to folio 282 (showing copy). Does that refresh your memory as to this incident? A. Yes, from my records. They show that he purchased a reprint of the Webster Dictionary.

1706

Q. What did he say to you he had purchased when he bought this book? A. Webster's Dictionary.

Q. Did he say anything about its being the recent, current or up-to-date edition, or what did he say? A. I think he did. He told me it was up-to-date.

Q. Have you recently met with persons who have bought the book entitled "Webster's New Standard Dictionary" from the Buffalo Evening News? A. I have.

1707

Q. Give the names of some of such persons, all that you can recall?

MR. CARROLL: Objected to on behalf of Cupples & Leon.

MR. HALE: Attention is called to the admitted fact that Cupples & Leon Company's book was printed from the same plates, or duplicates thereof, as the Syndicate Publishing Company's book, and that the only difference in the title is the use of the words "Webster's New Century Dictionary" instead of the title "Webster's New Standard Dictionary."

1708

A. I have met a great many of them. One of them was Miss Laura B. Hagarty; Miss Love; Miss Fisher; Mr. Nuechterlein; Mr. Graham, and Miss Inskip.

1709

Levi E. Porter—Direct.

Q. Did you meet any others? A. I have met lots of others, but I don't recall their names. I have not made a record of the names.

Q. Judging from what these people said to you at the time of your canvass, what book did they think they had purchased in purchasing this book from the "News"?

1710

MR. CARROLL: Objected to as incompetent, irrelevant, immaterial, and calling for a conclusion by this witness as to what third parties, not present, thought.

MR. HALE: Question withdrawn. I will rephrase it.

1711

Q. In canvassing these persons, what did they say to you, in substance, with respect to the book they had bought, or intended to buy, when they bought this book from the Buffalo Evening News? A. They said that they had already or just purchased a new Webster Dictionary.

Q. What else, if anything, did they say? A. They usually added that it was up-to-date, and the latest edition of the Webster Dictionary.

Q. Did any of them refer in any way to its relation to the Webster dictionaries such as are used in the schools of Buffalo? A. Yes, some of them did.

1712

Q. What did they say in that regard? A. Claimed that it was the same.

Q. How many advertising campaigns were carried on during the year 1911 by the Buffalo News in connection with the sale of this dictionary? A. To my knowledge, but two.

Q. And when were they, respectively? A. One must have begun somewhere in October, and the other just before the Xmas Holidays, in 1911.

Q. To what extent are the Webster's dictionaries of the Merriam Company used in the pub-

lic schools of Buffalo? A. I should say practically universally.

Q. For how long has this been the situation? A. Since I have been here.

Q. Which is approximately ten years? A. Ten years.

Q. Did you, in your business, feel the effect of the competition of the Buffalo News in the sale of these dictionaries under the name of "Webster"? A. I certainly did. 1714

Q. Please describe the effects which you noticed—somewhat in detail, giving your reasons for any answer you may make? A. My sales in the city dropped off very materially, and I did some newspaper advertising, have been doing it every year, in nearly every newspaper in the city, large display advertising. The "News" I have used yearly for the past six years, always with good results. I placed an ad. in the "News" after the first campaign of the small dictionary, that is, of the Webster's Standard Dictionary, and received a total of nine replies, as compared to one ad. in the same paper on which I received 1,700 replies, That was a few years ago. I never received less than 100 replies before the one used in November, 1911, on which I received a total of nine replies and sold one dictionary. My sales previous to this one ad. had been on an average of not less than thirty-three and a third per cent. of all replies sent in—sometimes going up as high as sixty per cent. 1715

Q. This advertisement, from which you received only nine replies, was published while the "News" was running advertisements of its so-called "Webster's Dictionary"? A. Yes. 1716

Q. Can you state to what extent your sales fell off in the city of Buffalo and vicinity during and immediately subsequent to the advertising of these dictionaries by the Buffalo News? A. At least fifty per cent., I should say.

1717

Levi E. Porter—Cross.

CROSS-EXAMINATION by Mr. Carroll:

Q. In the advertisements that you spoke of as having been inserted in the Buffalo News by you, and as having brought responses from only nine people, what dictionary were you advertising? A. Webster's Dictionary, published by G. & C. Merriam Co.

Q. What particular Webster's Dictionary? A. The latest edition.

Q. What is its sub-title? A. Webster's New International Dictionary.

Q. What is the price of this dictionary? A. The total price is nineteen dollars.

Q. Do you recall the price at which the dictionary sold by the Buffalo News was offered? A. I do.

Q. What was that price? A. It was advertised as a four-dollar dictionary.

1719

MR. CARROLL: I move that that answer be stricken out as not responsive.

Q. At what price was the dictionary offered, was the question? A. Coupon and 98 cents, I think—44 cents, or 48 cents; 48, 98 and 78—three prices.

Q. Do you suppose that anyone thought they were getting your nineteen-dollar dictionary for 48 cents? A. We didn't advertise the full price of our dictionary.

1720

Q. Do you think that the small abridged dictionaries, published by the Syndicate Publishing Company under the name "Webster's New Standard," or "Webster's New Illustrated Dictionary" sold in competition with the "Webster's New International Dictionary" you have mentioned? A. I think the name "Webster's Dictionary,"—98 cents, 48 cents, was competition, because we advertised dictionaries, delivered at one dollar; that was our leading head.

Q. What dictionary did you mean to deliver

for this price of one dollar? A. I meant to deliver Webster's New International Dictionary on the payment of one dollar down and the balance in monthly payments.

Q. Will you repeat exactly what your heading was? A. I don't know whether I can do that exactly; I think we advertised Webster's New International Dictionary.

Q. I mean about the price. A. Oh—"Delivered 1722 for one dollar"; and we had in smaller type, "Balance paid in small monthly payments, a few cents a week," in the coupon, in some part of the ad. The main part of our ad, which was calculated to catch and draw our inquiries, was "One Dollar Down."

Q. And then, somewhere in much smaller type, I understood you to say, the further terms were stated? A. The further terms and conditions, yes.

Q. You stated that the sales of your dictionary 1723. fell off fifty per cent. while the advertising campaign above-mentioned, as having been conducted by the Buffalo News, was being carried on; the sales of what dictionary do you mean? A. Webster's Dictionary, published by G. & C. Merriam Co., or the dictionary which I am handling.

Q. You mean Webster's New International Dictionary? A. Yes.

Q. Do you handle any of the smaller abridged dictionaries published by G. & C. Merriam Com- 1724. pany? A. Yes.

Q. You did not refer to them, however, when you stated before that sales of Webster's Dictionaries fell off fifty per cent.? A. I referred to the entire series.

Q. Was the entire series affected in exactly the same proportion? A. No, the smaller ones were worst; didn't sell any to speak of.

Q. What were the sub-titles of the smaller dictionaries you refer to as having been sold by you?

1725

Levi E. Porter—Cross.

A. "Webster's Collegiate"; "Webster's Condensed."

Q. Give the prices. A. "Webster's Collegiate," from three to five dollars; and the "Condensed" from 70 cents to \$1.25.

Q. Were these two smaller dictionaries mentioned in your usual advertisements? A. No, sir.

1726 Q. Was I correct in understanding one of your answers to one of Mr. Hale's questions as being to the effect that the general public value Webster's dictionaries because they are used in schools? A. Yes.

Q. And as stating that they have wanted a dictionary published by the same publisher as the dictionaries used in the schools? A. Yes.

1727 Q. Then, if dictionaries published, for example, by Laird & Lee, of Chicago, Ill., were in use in the schools of a particular town, you would assume that the people in that particular town would want a Webster's Dictionary published by Laird & Lee, Chicago, Ill., would you not? A. No.

Q. Why not? A. Laird & Lee's books are smaller, and they are not the standard as found in any town.

MR. CARROLL: I move to strike out that answer as not being responsive.

1728 MR. HALE: You asked why, and that is his reason.

Q. Do you wish to correct your answer, then, to the previous question, namely, that the people value Webster's dictionaries because they are used in the schools? A. No.

Q. Why do you say, then, in spite of the fact that in the town which I have supposed Webster's Dictionary, as published by Laird & Lee, is used in the schools, people would not value those Webster's dictionaries? A. Because I don't think that supposition would be possible.

Levi E. Porter—Re-direct.

1729

Q. What supposition do you mean as being impossible? A. That Laird & Lee's publication is used as the standard in any school in any town.

RE-DIRECT EXAMINATION by Mr. Hale:

Q. The price at which the Buffalo Evening News offered its said dictionaries included a coupon arrangement, did it not? A. Yes.

Q. And the price was represented, not as the price of the book, but as an expense bonus? A. Yes. 1730

Q. The book being advertised as a gift from the newspaper to its subscribers—is that not correct? A. That is my impression, yes.

Q. What is your territory in the sale of the dictionaries?

MR. CARROLL: Objected to as improper re-direct examination.

1731

A. Nineteen counties in Western New York.

Q. In any of those counties, or in any part of your territory, is or is not Laird & Lee's so-called Webster Dictionaries used as a standard authority in the schools? A. I don't think there is a place in my territory where Laird & Lee's books are used as authority in the schools. If there is, I have never found one. I have visited every large school in my territory, and nearly all the small ones.

1732

Q. And you keep in touch with such schools?
A. I keep in touch with the entire territory.

LEVI E. PORTER,
Witness.

Subscribed and sworn to before me }
this 28th day of February, 1912. }

JOHN E. LIVERMORE,
Notary Public,
Erie County, N. Y.

1733

Miss Edith Fisher—Direct.

MISS EDITH FISHER, called as a witness on behalf of the complainant, being duly cautioned and sworn, testified as follows:

DIRECT-EXAMINATION by Mr. Hale:

Q. Where do you live, and what is your occupation? A. 2090 Seneca Street, Buffalo, N. Y., and teaching is my occupation.

1734 Q. In the public schools of Buffalo? A. Yes.

Q. How long have you taught in those schools? A. This is my first school here.

Q. Where else have you taught? A. East Aurora, N. Y.

Q. And how long did you teach there? A. Two years.

Q. Did you go to school in the New York schools? A. Buffalo Normal.

1735 Q. In times past have you been more or less familiar with the book known as Webster's Dictionary? A. Yes.

Q. For about how long? A. Ever since I have been in the Ninth Grade—oh, no, before that, I suppose.

Q. And what has been your notion of the standing and reputation of that dictionary as a book of reference? A. I always supposed it was the best.

1736 Q. Recently have you had occasion to buy a dictionary from the Buffalo Evening News? A. Yes.

Q. About when was that? A. I think in November last. It may have been before that.

Q. I show you a book and ask you if that is the dictionary which you purchased at that time—I think it has your name in it—shew me it?

MR. HALE: I offer the book in evidence, identified by the witness, marked "Complainant's Exhibit, Miss Edith Fisher's Dictionary." (So received in evidence.)

Q. When you bought this book, what book did you intend to buy, and think that you did buy?

A. The regular Webster's Dictionary.

Q. Is Webster's Dictionary used in the public schools of Buffalo? A. Yes.

Q. And has been all the time you have been there? A. Yes.

Q. At the time you bought this book from the Buffalo Evening News did you know the name of the publisher of the Webster's Dictionary which you have said you regarded as a high authority? A. No. 1738

Q. Did you know the name of the publisher of the Webster dictionaries used in the public schools of Buffalo, at that time? A. No.

Q. Did you know whether or not there was more than one concern that published dictionaries using the name "Webster"? A. No, I didn't.

Q. At the time you bought this book did you examine or test it before you bought it? A. No. 1739

Q. Upon what did you rely as an assurance that it was a good dictionary, worth buying? A. Because it was advertised as the Webster.

Q. And Webster's dictionaries had a good reputation in your mind? A. Yes.

Q. What connection did you think there was between this book and the other Webster dictionaries which you had known of and which were in use in the schools? 1740

MR. CARROLL: Objected to, inasmuch as it has not been definitely shown what dictionaries Miss Fisher had been intimate with in the schools or had known.

A. You mean, did I suppose it was the same kind as was used in the schools?

Q. Yes, if that is what you thought. A. I supposed it was by the same author as the one we had used in the schools.

1741

Miss Edith Fisher—Cross.

Q. What about the publisher? A. I didn't think anything about the publisher at all.

Q. Did you think it was one of the books that are standard in the Buffalo public schools? A. Yes.

Q. Have you ever heard of a book called "The Crown Dictionary" before it was mentioned in this suit? A. No.

1742 Q. I show you a book entitled "The Crown Dictionary", which has been offered in evidence in this case and marked "Complainant's Exhibit A", referred to by Mr. H. W. Baker, and ask you if you intended to buy that book, or thought that you were buying it, from the Buffalo News? A. No; I supposed it was a Webster.

CROSS-EXAMINATION by Mr. Carroll:

1743 Q. If, in fact, the book which you purchased was a Webster's dictionary, would it have made any difference to you if for a time it had been sold under the name "Crown Dictionary"? A. I suppose so, because I would not have bought it if it was not called "Webster's".

Q. What did you want? A. I wanted a Webster.

1744 Q. And if, at the time you bought it, it was called a Webster, you would have bought it irrespective of its past name, if in fact it was a Webster? A. How could it be a Webster if it was a Crown? Would it be called a Webster then?

Q. Is that your answer?

MR. HALE: Take that as the answer, unless you want to keep at it.

MR. CARROLL: I certainly do.

Q. On the title page of the "Crown" dictionary, exhibited to you by Mr. Hale, it is stated that

the dictionary is based upon the unabridged dictionary of Noah Webster, L.L.D., and revised and brought up-to-date in accordance with the most recent eminent English and American authorities. It is claimed by the defendants in this case that the description on the title page of the "Crown" Dictionary is a correct one, and that the dictionary is in fact based on Webster's Dictionary. I now repeat my earlier question, which was: If, at the time you bought it, it was called a Webster, you would have bought it irrespective of its past name, if in fact it was a Webster? 1746

MR. HALE: The question is objected to as calling for a conclusion of the witness as to one of the matters in issue.

A. I don't really understand what you mean.

MR. CARROLL: I will ask it again. I will tack on this question to the statement I made. Read the last question. (Last question read.) 1747

Q. I now ask you, if you knew that the claim was a correct one and that this dictionary was, in fact, based on Webster's Dictionary, and at the time you bought it it was correctly labeled "Webster's Dictionary", would you in any way have been deterred from buying it from the fact that for a time previous to that it had been sold under the name of the "Crown" Dictionary? 1748

MR. HALE: Objected to on the ground that it calls for the present guess as to what the witness would have done under circumstances which did not exist.

MR. CARROLL: The question is made necessary by a previous question of Mr. Hale's, also calling for a guess.

1749

Miss Edith Fisher—Cross.

A. If I thought it was ever called "The Crown", I don't suppose I would ever have bought it,—if it had ever been called anything but a "Webster".

Q. What did you want to get? A. I wanted something that was a real Webster, not anything based on it. Any book might be based on anything else, and still be entirely different.

1750 Q. What do you mean by "a real Webster"?

A. One that had been called nothing but a "Webster"; always been a Webster; from the original Webster.

Q. Do you think that the name of the dictionary makes it any more or less a Webster's Dictionary?

A. Well, yes, I think so.

Q. Then, if you were offered a dictionary written by Mr. Hale called "Webster's Dictionary," would you be satisfied that you were getting a Webster's dictionary? A. I don't know.

1751

Q. What is the answer? A. No.

Q. Isn't it, after all, the contents of the dictionary which you desire to be correct? A. Yes.

Q. And, if you are getting the contents of a Webster's dictionary, and at the time you buy it it is properly called a Webster's Dictionary, why should it make any difference to you that those contents have, for a time, in the past, been sold under the name "Crown Dictionary"? A. Because I don't see why they would ever call it anything but a Webster; I don't see what reason they would have to change the name of it.

1752

Q. Would it make any difference to you? A. Yes.

Q. Why does it? A. I think if I started out to buy a Webster I would not want one that had been called something else some other time.

Q. But you say all that you want is a Webster's Dictionary? A. But I want one that has not been called something else.

Q. Then, after all, the name is the most important thing in your mind, not the contents? A. Why, no, the contents with the name of Webster. I would want something that was in the original Webster.

Q. What do you mean by "original Webster"?

A. I suppose one that was written by Webster, one that had been approved of by people who know something about dictionaries.

Q. When do you suppose Webster died? A. About 50 or 75 years ago, I don't know exactly.

1754

Q. Do you mean, then, by "an original Webster," which you say you want, the identical dictionary which was entirely written by Webster before his death? A. Oh, no, because everything has changed so since that it should be revised.

Q. Then, don't you mean by the term "Webster's Dictionary," which you expect to buy to-day, a dictionary based upon the original dictionary written by Noah Webster? A. In a sense it would have to be based upon it, of course; but I think it would have to be more than "based" on it.

1755

Q. What do you mean by that? A. Well, any story may be "based" on anything—just take a few facts, but not the whole story. This dictionary may be "based" on the original, but only a few words, giving the same meanings, and a lot of others changed, and still it can be "based" on it, and would not be the real Webster. That is the way I understand it.

1756

Q. Again I ask you what do you mean by "the real Webster." (No answer.)

Q. You have stated that you did not mean by "a real Webster," such as you might buy to-day, the exact Webster which was written by Noah Webster before his death, but that you did mean something which was taken from that dictionary.

1757

Laura Dunbar Hagarty—Direct.

Can you explain that any more definitely? A. Only what I have said.

Q. What more do you want, then, when you intend to buy a Webster's Dictionary to-day, then a dictionary based on the original dictionary edited and compiled by Noah Webster? A. I would want one that had not had the name changed, because I think it should naturally remain the same if most of the words were the same.

1758

Q. Can you explain why the name makes any difference, if it does? A. As long as Webster's has always been regarded as the best dictionary, I don't see why they would change the name and call it "The Crown."

(Signature waived.)

1759

LAURA DUNBAR HAGARTY, called on behalf of the complainant as a witness, and being duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. What is your name, residence and occupation? A. Laura Dunbar Hagarty; 555 Walden Avenue, Buffalo, N. Y.; teacher of English in the Teacher's Training School, Buffalo, N. Y.

Q. Are you also the editor of the English Department of the Normal Instructor? A. Yes.

1760

Q. About how long have you been such an editor? A. Four years.

Q. About how long have you been teaching in the schools of Buffalo? A. About—let me see—I think fifteen years. That is approximately.

Q. Well, approximately will do. A. Well, approximately that is right.

Q. In times past I presume, of course you have

heard of Webster's Dictionary as a work of reference? A. Yes, I have used it.

Q. And have you heard it spoken of and referred to by various people in writings and works of that sort, from time to time? A. Certainly.

Q. During this period what has been your understanding of the reputation and authority of Webster's Dictionary as a work of reference? A. Well, as a teacher of English I have understood that it was the American authority, just as in England the old Worcester Dictionary used to be the authority. 1762

Q. Are Webster's dictionaries used as a standard authority in the schools of Buffalo, to your knowledge? A. I couldn't answer for all the schools, because I have not recently taken that matter up. I assume, though, that all the schools are using, just as we do in the Training School, the Webster dictionary. 1763

MR. CARROLL: I move that the last part of that answer be stricken out as assumption.

Q. In the Fall of 1911, in or about the month of October, did you have occasion to purchase a dictionary from the "Buffalo Evening News," in this city? A. Yes.

Q. How did you come to make that purchase? A. I read the advertisement in the Buffalo Evening News of a dictionary, Webster Dictionary, for sale. I went to the News office and bought a dictionary that I thought I was going to pay \$4.98 for, but, when I received the change, it was a 98-cent dictionary I bought. I thought I was buying the five-dollar edition of the G. & C. Merriam dictionary. 1764

I think I ought to go back and tell you that I had a friend at one time in the Editorial De-

1765

Laura Dunbar Hagarty—Direct.

partment of the G. & C. Merriam Company, and that is how I happened to know this publisher, to know the genuine Webster Dictionary from the other. I am not jumping at G. & C. Merriam; I have known of that publishing house for a great many years.

Q. What made you think you were to pay \$4.98 for this book? A. Careless reading of the advertisement, to tell you the truth.

Q. Did you confuse the book advertised with any specific book of the Merriam's of which you knew? A. Yes. This is more personal history.

Q. If so, please state it fully. A. Last spring my brother-in-law came from Winnipeg with a five-dollar copy of the G. & C. Merriam Webster's Dictionary. It was just the size that I wanted, in every way, the dictionary that I wanted; and when I carelessly read the New's advertisement, I thought that was the dictionary I was getting, That is why I jumped at that dictionary.

Q. Was the name of that dictionary "Webster's Collegiate Dictionary," or can you recall the name? A. I couldn't swear to that. It was a dictionary exactly like the five-dollar edition of the G. & C. Merriam publication.

Q. What particularly attracted you to make this purchase from the News, what in the ad? A. I don't know that I know. I can't answer that question. I don't think I analyzed it sufficiently.

Q. What effect did the name "Webster" in the advertisement of this book have in inducing you to make this purchase? A. It had the entire effect. There was absolutely no other consideration.

Q. Did you examine or test the book at or before the time you bought it? A. No.

Q. What did you rely upon to show that it

Levi E. Porter—Direct.

1769

was a book worth buying? A. The title of "Webster" on the cover.

Q. You intended to buy a book published by what publisher, if you had any particular publisher in mind?

MR. CARROLL: Objected to as already having been answered.

A. I intended to buy the genuine Webster, the G. & C. Merriam Webster. 1770

Q. I presume, owing to your failure to examine this book, that you did not notice the name "Syndicate Publishing Company" in the publisher's imprint? A. No, I didn't.

Q. I show you a book entitled "The Crown Dictionary," which has been marked in evidence in this case, and ask you if you expected to buy that book when you bought the other book from the Buffalo News? A. No. 1771

Q. Of course, then, you did not know that you in fact bought substantially that book?

MR. CARROLL: Objected to as assuming a state of facts not proved.

A. No.

MR. CARROLL: No cross-examination.

I move that the whole deposition be stricken out as immaterial, irrelevant and incompetent. 1772

LEVI E. PORTER, being recalled by the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. Have you read over all or any portion of your testimony? A. I have read over part of it, yes.

1773

Bernard Nuechterlein—Direct.

Q. Is there any correction or addition you wish to make to any part of it, if so, please do it now?

A. On page 11, line 21, of the transcript, the following question was asked: "Can you give the date of those editions that are meant to-day?" I answered "Yes." The next question that came to me was "Please do so," and my answer was the dates of the entire series. I should prefer to
 1774 give the dates of the Webster International Dictionaries,—1890 and 1910,—the new International, the dictionary meant to-day as the standard.

Q. Is there anything else you would like to add to your testimony? A. Nothing else, as far as I have read it over.

LEVI E. PORTER,
 Witness.

Subscribed and sworn to before me

1775 this 28th day of February, 1912. }

JOHN E. LIVERMORE,
 Notary Public,
 Erie County, N. Y.

BERNARD NUECHTERLEIN, called as a witness on behalf of the complainant, being duly cautioned and sworn, testified as follows:

1776

DIRECT EXAMINATION by Mr. Hale:

Q. Please state your name, age, residence and occupation? A. Bernard Nuechterlein, age 21, 178 Masten street, Buffalo, N. Y.; teacher in the Parochial School on Southampton street.

Q. Have you recently purchased from the Buffalo Evening News, a newspaper of this city, a dictionary entitled "Webster's New Standard Dictionary?" A. It is not entitled "Webster's

New Standard Dictionary;" it says "Webster's Standard Dictionary."

Q. How did you come to purchase this book?

A. There was a coupon in the paper.

Q. About when was this? A. Oh, that is quite a time ago.

Q. In the fall of 1911, fall of last year? A. Some time along there.

Q. When you bought this book what did you believe with respect to whether or not you were getting a genuine Webster's Dictionary? A. No, I didn't know. I knew it was not a real dictionary; I knew just what was coming, I knew it was the dictionary I was getting; I knew it was not the real standard dictionary, for they would not sell that for 98 or 99 cents, whatever it was. 1778

Q. Is that the only reason you had? A. I knew what was coming; I knew the dictionary; I knew that somebody else had it, before I bought it. I knew what it was. 1779.

Q. You had seen it? A. Sure, I had seen it before.

Q. Are you the Mr. Nuechterlein who made an affidavit in this case on or about the 12th day of December, 1911? A. Well, you know how it was. This man came in to me—

Q. Answer the question. Did you make the affidavit? A. I signed my name. I never read through whatever he had there, or anything like that, because I trusted him as a man who would not give me any trouble or anything like that. 1780.

Q. Since making that affidavit has anyone been to see you from the Buffalo Evening News? A. No one.

Q. I show you the affidavit entitled in the case of G. & C. Merriam & Co. against Cupples & Leon Company, and sworn to by you on the 12th day of

1781

Bernard Nuechterlein—Direct.

December, 1911, and ask you if that is your signature (showing affidavit to witness)?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial.

A. Yes, that is my signature. But, as I said, I didn't read through this at all. I had had it spoken to me before. I would like to read it
1782 through once. I don't know it all what is in there.

Q. Please read that affidavit.

MR. HALE: Complainant's counsel states that he is totally surprised by the evidence of this witness, and for that reason is showing him his affidavit, which was accepted and presented in perfect good faith.

A. (Reading affidavit.) That is not the dictionary I bought.

1783 Q. Have you read the affidavit now? A. I have read it.

Q. Did you sign that affidavit? A. I signed it, but I didn't read it through.

Q. Did you swear to it? A. No, I didn't—I wouldn't—I never signed this paper. He knocked at my door and I came out, and he asked me about it, and I didn't even read it through. I thought there wasn't anything out of the way, and I took him as a good friend of mine, and signed my
1784 name; but I wouldn't sign my name now to such a paper, because that is not what I wanted.

Q. Will you point out any statement in that affidavit that is not true?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial, as an attempt to shake the testimony by Mr. Hale of one of his own witnesses.

MR. HALE: Complainant's counsel states

that he is of the opinion that this witness has been approached by representatives from the other side, who have repeatedly worked with the complainant's affiants; and, being taken by surprise by this witness's attitude, he wishes to ascertain the full facts.

A. "Webster's New Standard Dictionary"— 1786
that is one of them. I never expected anything like that, because I have Webster's New Standard Dictionary; that is a twelve-dollar book, and I have that at home.

Q. Who publishes the book you have at home?
A. I can't really say that. I think it is the same company I have here.

Q. The Merriam Company? A. Yes.

Q. A large, unabridged dictionary? A. Yes, a
standard book, as the new standard dictionary. 1787

Q. I show you a book which has been offered in
evidence in this case, and ask you if that is a copy
of this book?

MR. CARROLL: Let him finish making his
corrections to his affidavit.

MR. HALE: He used the word "New
standard" in the descriptive sense, not as
a title.

Q. I show you the book marked in evidence in 1788
this case as "Complainant's Exhibit, Miss Edith
Fisher's Dictionary", and ask you if that is a copy
of the book you bought from the Buffalo News?
A. (After examining book referred to.) It is
something similar. I haven't that book any more.
I didn't use it at all.

Q. What did you do with it? A. Sold it, or gave
it to one of my friends.

Q. Who was that friend? A. He is not here in
the city now.

1789

Bernard Nuechterlein—Direct.

Q. Where is he? A. I think that is the book I had.

Q. You observe that that book is entitled "Webster's New Standard Dictionary"? A. It seems to be, yes.

Q. Then the statement in that affidavit that you bought a book entitled "Webster's New Standard Dictionary" is not untrue? A. I knew, though—

1790 Q. Never mind that. The statement in your affidavit that you bought a book entitled "Webster's New Standard Dictionary" is not untrue? A. Well, it was marked in the paper like that, probably; it was a new dictionary; but I knew I was not getting the new dictionary, but because I had Webster's New International Dictionary in my room. I knew I was not getting the same dictionary, because that is twelve dollars. That it was entitled like that, or whether other people

1791

believed it to be, I don't doubt.

Q. You knew you were getting a small dictionary? A. I knew I was getting a small dictionary, not one of those big ones.

Q. Did you think that this book was an abridgment of one of the big Webster Dictionaries? A. I knew it was not Webster's Unabridged or the abridged—

Q. What did you think it was? A. I just knew what kind of book it was, because I had seen it before; somebody else had it.

1792

Q. Is there anything else in that affidavit which you think is not true? A. The whole affidavit here would indicate that I bought this book for the New International Dictionary, that big dictionary; that is the way I think; and probably the people who bought this book thought so; but I didn't think so, because I knew it was not the same book.

Q. Read that affidavit, and point out what there

is in it anywhere that says that you bought this book for the big Webster's Dictionary, or the big Webster's International Dictionary. I think you misunderstand the language of that affidavit.

A. Well, the way this affidavit here says—

Q. Please read the part you refer to. A. "I bought it believing I was obtaining a genuine Webster's Dictionary of established authority."

Q. Is that true? A. "I thought it was one of the Webster's Dictionaries which are used as standard authorities, to a large extent, in the schools of this country and which have been so used for many years. I thought it was the current Webster's International Dictionary, and that it was published by the same publishers." 1794

Q. Is that true? A. That is not the way I took it, or what I took it for.

Q. Explain what you took it for. A. The way, as I told you before—the book, as I saw it before; not as some people might have taken it, Webster's New International Dictionary, because I knew what I was getting. 1795

Q. What connection did you think it had with the small Webster's Dictionaries such as are used very commonly in schools?

MR. CARROLL: Objected to, inasmuch as the witness has not testified he ever had seen any small dictionaries used in the public schools.

1796

A. I didn't think about that question at all. It didn't bother me any, what connection they had. I knew the book, and knew somebody else had it; I knew it was a cheap book.

Q. Upon what did you rely as showing that it was worth buying at the price? A. Well, I saw the definitions in it. Some were really correct and simple.

1797

Bernard Nuechterlein—Direct.

Q. Do you know the reputation of Webster's Dictionary as a work of reference in this country? A. Oh, yes, academic; and this New Standard Dictionary I have now, the twelve-dollar book, I know that that is known as one of the best books in the country.

1798 Q. Did that good reputation of Webster's dictionaries have anything to do with making up your mind to buy this book at the cheap price? A. Nothing at all.

Q. Who have you seen in reference to this book at any time? A. Do you mean any of my friends?

Q. Who has called to see you and inquired about your purchase of this book? A. This man here has been——

Q. Mr. Livermore? A. I don't know his name.

1799 Q. This gentleman (indicating Mr. Livermore)? A. No, the other man.

Q. Mr. Porter. He called to see you many times? A. This time he came to the school-room and asked me about dictionaries.

Q. What did you tell him? A. I told him I didn't need any dictionaries in the school. He then came later on, once more, I think.

Q. That first time did he ask you about buying this book from the Buffalo News? A. Yes, he asked me if I had bought a book like that.

1800 Q. What did you tell him? I told him I had done so.

Q. Did you give that as a reason for not buying another Webster's Dictionary? A. No, not at all, because I told him I didn't want any dictionaries, because I didn't need any.

Q. Who next called to see you? A. Nobody else.

Q. How many times did Mr. Porter call there? A. I can't really tell. I guess he was in the room later on. I think he saw a gentleman upstairs.

He was there Saturday and asked me to come down here to-day.

Q. Has anyone else called upon you at any time in connection with this matter? A. Not at all.

Q. Didn't Mr. Livermore, the notary before whom you signed this affidavit? A. He was along that time when I signed.

Q. That was not the first time Mr. Porter 1802 called upon you, was it? A. No, I don't think so; it was the second time, I think.

Q. Upon the occasion of the first call you told him about this purchase and the circumstances of it? A. I didn't tell him much about it at all; just told him I had tried it and I had one, etc., that is all I said; I didn't explain much about it at all.

Q. Has anybody else called upon you since making this affidavit? A. No, excepting that he 1803 was there Saturday again.

Q. You are sure that is the only time any person called upon you in connection with this affidavit? A. There is no one else than Mr. Porter, I think his name is.

Q. No one saying that they represented the Buffalo News? A. Nobody at all.

Q. No one saying that they represented the Syndicate Publishing Company? A. No.

Q. Do you remember you are on oath now? 1804
A. If you can't take my word—

MR. CARROLL: I object again to all this line of testimony. It is an effort to cross-examine and shake the evidence of one of Mr. Hales's own witnesses, to disprove his statements.

WITNESS: If I had known I had testified to anything like that I would never have come down here, nor never testified to this here (affidavit). I took Mr. Porter as

1805

Levi E. Porter—Direct.

honest and true in his statements. I am not a man who tells lies, or anything like that.

MR. CARROLL: No cross-examination.

MR. HALE: That is all.

(Signature waived.)

1806

LEVI E. PORTER, recalled on behalf of the complainant testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. You are Mr. Levi Porter who has already testified in this case? A. I am.

Q. Do you remember calling upon Mr. B. J. Nuechterlein some time in the latter part of the year 1911? A. I do.

Q. State what occurred on that occasion. A.

1807 I called at the school he was teaching in, with the idea of selling a dictionary to the school, Webster's International Dictionary; and I rapped on Mr. Nuechterlein's door, and he came to the door, and I told him what I had, and he said he had just bought a new Webster Dictionary, and I questioned him as to the book he had gotten, and he said it was the—I asked him first was it the genuine Webster Dictionary, and he said he had got the latest Webster Dictionary. I asked him

1808 where he had bought it, and he said he had bought it of the Buffalo News—

MR. CARROLL: I move that the answer be entirely stricken out as incompetent, irrelevant and immaterial, hearsay evidence, not binding on these defendants.

Q. Did you question him as to the book he had purchased, and talk to him about it? A. As I stated just now, I did.

MR. CARROLL: Same objection as before.

Q. Then did you state the substance of what Mr. Nuechterlein had said to you to Mr. Hale?

A. I did.

Q. Then do you know that he prepared a draft of an affidavit? A. I do—Mr. Hale?

Q. Yes. A. I do.

Q. And he gave the same to you to have the same executed by Mr. Nuechterlein? A. He did.

Q. I show you the affidavit signed by Mr. Nuechterlein, and ask you if that is the affidavit which Mr. Hale drafted in accordance with your statement of what Mr. Nuechterlein had stated? A. It is. 1810

Q. Will you please read the same and, having done so, please state whether that affidavit contains an accurate statement of the substance of your conversation with Mr. Nuechterlein and Mr. Nuechterlein's statement to you on that subject?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial; that Mr. Nuechterlein has already testified in this case that the affidavit does not contain his previous thoughts or his present thoughts about this dictionary; that his testimony is the best evidence as to what his ideas are on the subject; and any statement by Mr. Porter is purest hearsay. 1811

A. (After reading affidavit.) It does, to the best of my recollection. 1812

Q. Did you then take that affidavit to Mr. Nuechterlein? A. I did.

Q. Were you accompanied by John E. Livermore, a notary public, on that occasion? A. I was.

Q. Were you present when Mr. Nuechterlein signed and swore to that affidavit? A. I was.

Q. Did you hand the draft of it to Mr. Nuechterlein before he executed it? A. I did.

Q. And did you see him sign it? A. I did.

1813

Examiner's Certificate.

Q. Who was present upon that occasion? A.
Mr. Livermore, Mr. Nuechterlein and myself.

Q. Anybody else? A. No.

MR. CARROLL: No cross-examination.

LEVI E. PORTER,
Witness.

1814 Subscribed and sworn to before me }
this 28th day of February, 1912. }

JOHN E. LIVERMORE,
Notary Public in and for
Erie County, N. Y.

UNITED STATES OF AMERICA, }
Western District of New York, } ss.:

1815 I, JOHN E. LIVERMORE, Special Examiner, duly
appointed by the District Court of the United
States for the Southern District of New York,
as appears by a certified copy of the order of
appointment hereto attached, do certify that in
pursuance of said appointment and pursuant to
notice, the taking of depositions was proceeded
with before me at my office No. 11 Niagara
Street, in the City of Buffalo, State of New
York, in the Western District of New York, on
Monday the 26th day of February, 1912, at ten
o'clock in the forenoon of that day; that the wit-
nesses named in the said depositions being of
1816 sound mind and lawful age were severally pro-
duced, cautioned and sworn to testify the truth,
the whole truth and nothing but the truth in the
matter of controversy aforesaid; that by the con-
sent and stipulation of the counsel for the re-
spective parties said depositions were taken
stenographically and reduced to typewriting by
a competent stenographer and typewriter by me
specially appointed therefor and that the signa-
tures of the said witnesses were waived as ap-
pears by the stipulation of counsel, except that

Examiner's Certificate.

1817

of the witness Levi E. Porter; that the depositions of the said Levi E. Porter when completed and reduced to typewriting were read and subscribed by him in my presence; that the several witnesses whose names are set forth in the annexed depositions severally appeared before me at the place, day and hour as set forth in said depositions of said witnesses hereto annexed; that the several exhibits referred to in said annexed depositions were received and offered in evidence as specifically noticed in said depositions; that in accordance with the consent and stipulation of counsel for the respective parties said exhibits have been marked and a proper reference thereto entered in the record and after having been so introduced and marked in evidence, have been retained by the counsel of the party offering the same; that the reasons for taking said depositions are and the fact is that said witnesses reside at and near the City of Buffalo, in the State of New York, which is more than 100 miles from the place where the above entitled cases are pending for hearing; that in the taking of said depositions I was attended by William B. Hale, Esq., counsel for complainant and by Lauren Carroll of counsel for both defendants, to wit, Syndicate Publishing Company and Cupples & Leon Company.

1818

1819

I do further certify that I am not attorney for or counsel to either of the parties to said suits or either of them or in any manner related to either of the parties, or in any manner interested in the result of said suit, and that I have retained the said depositions in my possession until the same are sealed and transmitted by me to the Court for which the same were taken.

1820

WITNESS my hand at Buffalo, New York, this day of February, A. D., 1912.

JOHN E. LIVERMORE,
Special Examiner.

1821 DISTRICT COURT OF THE UNITED
STATES.

SOUTHERN DISTRICT OF NEW YORK.

	G. & C. MERRIAM COMPANY, Complainant,	Equity 8-161.
	VS.	
1822	CUPPLES & LEON COMPANY, Defendant.	
	G. & C. MERRIAM COMPANY, Complainant,	Equity 8-162.
	VS.	
1823	SYNDICATE PUBLISHING COMPANY, Defendant.	

Boston, March 11, 1912.

Testimony taken on behalf of the complainant, for final hearing, pursuant to notice annexed, before Charles K. Darling, a Special Examiner of this Court, pursuant to the 67th Rule in Equity, as amended, at the Post Office Building, Boston, Massachusetts, at 2 P. M.

1824

APPEARANCES:

The Examiner.

WILLIAM B. HALE, Esq., for Complainant.

GEORGE F. BEAN, Esq., for both Defendants.

GEORGE H. MARTIN, a witness called on behalf of the complainant, having been first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation? A. George H. Martin; age 70; Lynn, Mass.; retired.

Q. 2. Until the time of your retirement what was your occupation? A. Secretary of State Board of Education from 1904 to 1909; for two years treasurer and agent for the Mass. State Board of Education. 1826

Q. 3. Have you been more or less familiar with Webster's Dictionary in times past? A. Yes, for forty or more years.

Q. 4. In what connections have you known and heard of it? A. I was a teacher in the State Normal School at Bridgewater, and I was familiar with it; after that, as agent of the State Board of Education and Supervisor of the Schools in Boston, and as Secretary of the State Board of Education. 1827

Q. 5. Was Webster's Dictionary used as a standard authority in the schools to which you have referred? A. I should say yes; my impression is that in the Bridgewater Schools both Webster and Worcester were used.

Q. 6. About what year was that when both Webster and Worcester were in use? A. Well, I was in that school from '64 to '82. During that time I had for use both dictionaries in my own library. 1923

Q. 7. During all this period what has been the standing and reputation of Webster's Dictionary as a work of reference? A. Practically I should say it stood at the head of dictionaries, for ordinary working purposes in school or library.

Q. 8. During all this period who has been the publisher of the Webster Dictionaries to which

1829

George H. Martin—Direct.

you have been referring? A. I have always associated them with the Merriams of Springfield, Mass.

Q. 9. During this period did you know of any other Webster Dictionary as a standard authority except the one published by the Merriams? A. No, I never heard of one.

1830

Q. 10. Upon what particular books or editions does the present day reputation of Worcester's Dictionary as an authority rest? A. I should think Webster's Unabridged and Webster's International Dictionary.

Q. 11. Do you know the dates of these two editions? A. I do not.

Q. 12. Can you approximate them? A. According to my memory it was the Unabridged Dictionary which I used in the Normal School. Just when the International succeeded the Unabridged, I am unable to say.

1831

Q. 13. Are you able to state what book is meant by the public generally when they refer to Webster's Dictionary as an authority upon some question of language to-day? A. The latest edition of Webster's Dictionary which the parties have who refer to it as authority.

Q. 14. Published by whom? A. Published by the Merriams.

1832

Q. 15. What other dictionaries are in current use as established or standard authorities in addition to the Webster's Dictionary? A. The Century Dictionary and the Standard Dictionary are in common use.

Q. 16. Would a small book prepared to-day by people who had no previous connection with Webster's Dictionaries, but which was founded to some extent upon the 1847 edition of Webster's Dictionary, be the book commonly known as Webster's Dictionary to-day, all the subsequent copyrighted editions having been skipped over and ignored? A. I should think not.

Q. 17. If you should see a dictionary, either large or small, entitled "Webster's Dictionary," whose publication would you assume it to be? A. Merriams'.

Q. 18. Upon what is the authority of a dictionary based; or in other words how is it acquired? A. I should say on the general opinion of scholars as to the scholarship of the compilers of the dictionary and the accuracy with which they had done their work. 1834

Q. 19. What part does length of use have in establishing the authority of a dictionary? A. Other things being equal, the longer a book has been in use, the better it is known and the better its standing as an authority, I should think.

CROSS-EXAMINATION by Mr. Bean:

x Q. 20. What gave the Webster's Dictionary, with which you say you were familiar in your early years, its authority? I mean what, in your opinion now, gave it its authority then? A. The standing as scholars of the men who made it. 1835

x Q. 21. From whom, originally, did Webster's Dictionary derive its name, if you know? A. From Noah Webster.

x Q. 22. Was it the edition of 1847, known as the Unabridged Dictionary, with which you were familiar in your early days? A. Yes.

x Q. 23. Didn't the ability and fame of Noah Webster as a lexicographer give that dictionary its reputation and authority? A. Yes. 1836

x Q. 24. And do you not understand that subsequent Webster Dictionaries, published by the Merriam Company, have maintained their reputation and authority because of the work of Noah Webster? A. They originally had their authority because of the work of Noah Webster; but their subsequent authority was based on the scholarship of the men who have worked on the successive editions.

1837

George H. Martin—Cross.

x Q. 25. Do you think that the reputation of Webster's Dictionaries in the public mind generally is at the present day based upon the ability of the scholars who have been employed in the production of successive editions by the Merriam Company, or upon the reputation of Noah Webster? A. On the reputation of the men who have built on the Noah Webster foundation, I should think.

1838

x Q. 26. Do you think the public generally know anything about the employment of scholars or editors by the Merriam Company on their successive editions? A. I think the literary and educational men who shape public opinion do know the facts regarding the men who do the work on the dictionaries.

1839

x Q. 27. Do you think it to be the fact that in the minds of the public generally the Merriam Company is at the present day in any way connected with the Webster's Dictionary? A. I think that most people associate to-day the Webster's Dictionaries with the Merriams. Personally, I never should have thought otherwise and I see no reason to think that I am an exception in that respect.

1840

x Q. 28. It would surprise you then, would it not, if you ever learned that of 100 men interviewed at random in business offices and stores in New York City, not one-half dozen knew who published Webster's Dictionaries or connected the Merriam Company's name with them? A. Yes, it would surprise me very much.

x Q. 29. In your mind, the name Webster's Dictionary, when you hear it or when it is cited as an authority, means the latest unabridged dictionary of the Merriam Company, does it not? A. Yes.

x Q. 30. Would the name Webster's Dictionary, in your opinion, suggest any one of the

Abridged Dictionaries published by the Merriam Company? A. Yes, it would mean some one of them. Without the qualifying term, I should not know which one.

x Q. 31. Then the name Webster's Dictionary does not necessarily mean the latest Unabridged Dictionary, to your mind? A. No, because the term Webster's Dictionary has been applied to all the successive forms which the Webster's Dictionary has taken; they call them all Webster's Dictionaries. 1842

x Q. 32. In your testimony you are concerned simply, are you not, with the question of the authority suggested by the name Webster's Dictionary, and you do not claim to know anything about the legal aspects of the question as to the right of any other concern than the Merriam Company to use the name "Webster" in the title of a dictionary? A. I know nothing regarding the legal rights of any of the parties interested. 1843

x Q. 33. Do you think that the word "Webster" can only be properly used if applied to a dictionary by the Merriam Company?

(By MR. HALE): Objected to as incompetent and immaterial and as calling for the personal opinion of the witness upon the merits of the case.

A. That's my opinion, yes. If I should see a dictionary labeled "Webster's Dictionary," and should see on the title page that it was published by someone else than the Merriams, I should be suspicious of it at once, and question its value. 1844

x Q. 34. That is, you would be suspicious as to its authority? A. Yes.

x Q. 35. Am I right, then in understanding you that if an editor should produce a dictionary which was, in fact, a revision and abridgement of the 1847 edition of Webster's Dictionary, and

1845

George H. Martin—Cross.

should cause it to be published by some other concern than the Merriam Company, and should give it a name which included the word "Webster," such name would be improperly applied to such dictionary? A. I should think so, yes.

x Q. 36. I suppose you are somewhat familiar with the copyright law and that after a certain number of years copyright protection on a book expires, are you not? A. I am.

1846 x Q. 37. And you are aware that under that law the copyright of the 1847 edition of the Webster's Dictionary did expire in 1889—forty-two years intervening? A. I should suppose it would have expired by that time.

x Q. 38. Have you been at all familiar with legal decisions with regard to Webster's Dictionaries? A. Not at all.

1847 x Q. 39. So that in your opinion as to the impropriety of calling a dictionary by the name of Webster when it is not published by the Merriam Company is simply based upon your conviction that the Merriam Company alone can give authority to a Webster Dictionary? A. It is based on the fact that all the Webster's Dictionaries that I have known and used have been published under the Merriam Company.

x Q. 40. No dictionary would have authority when it was published and before its scholarship and accuracy had been ascertained, would it? A. 1848 Probably not.

x Q. 41. You said in answer to a direct question that if you saw a dictionary with the name Webster in the title you would assume it was published by the Merriam Company. If you are interested in such a dictionary, would you not look at the title page to see who published it?

(BY MR. HALE): Objected to as incompetent, immaterial and as calling for a prediction and conclusion of the witness.

A. It is my habit to look for the publisher's name of most all the books I have occasion to read or examine.

x Q. 42. Would you be deceived by a dictionary having the name Webster in the title if the imprint on the title page were that of some other publisher than the Merriam Company?

(BY MR. HALE): Objected to as incompetent, irrelevant and immaterial, and as calling for a mere conclusion of the witness upon one of the issues in this case. 1850

A. I should be.

x Q. 43. Would you think such dictionary was a Merriam Company's Webster Dictionary? A. On going from the name of the book to the imprint on the title page I should be undeceived.

x Q. 44. The use of the name Webster would deceive you, would it not? A. Yes. 1851

x Q. 45. And is that because you think no one else besides the Merriam Company has the right to use it?

(BY MR. HALE): Objected to on the ground that the witness has disclaimed any intent to express any opinion upon the matter of legal rights.

A. Because in the dictionaries that I have used no one but the Merriam Company has used it. 1852

x Q. 46. You have no knowledge, have you, as to how many other publishers than the Merriam Company have within the last 20 years published Webster's Dictionaries, but you simply have never run across such publications; is that correct? A. That is correct.

x Q. 47. When you say that in going from the name Webster in the title of a dictionary to the imprint on the title page, and finding that im-

1853

George H. Martin—Re-direct.

print to be the imprint of some other concern than the Merriam Company, you would be undeceived, you mean, do you not, that you would be undeceived in the same way that you would if you were to be looking at a set of the works of Oliver Wendell Holmes, formerly published by the firm of Houghton, Mifflin & Co., under copy-right protection, and found the imprint of some
 1854 other publishing house at the bottom of the title page? A. If it were a publishing house of whom I had never heard I should have less faith in the value of the edition than if it bore the name of Houghton, Mifflin & Co.

x Q. 48. And in the same way you would have less faith in a Webster's Dictionary with some other imprint than that of the Merriam Company? A. Yes, unless it were a name of parties who were the legitimate successors of the Merriam Company,
 1855

RE-DIRECT EXAMINATION by Mr. Hale:

Re-D. Q. 49. Is there any standard Webster's Dictionary of established authority now known that is not published by G. & C. Merriam Company? A. Not known to me.

(EXAMINATION CLOSED.)

George H. Martin.

1856

JOHN J. O'NEILL, a witness called on behalf of the complainant, having been first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation. A. John J. O'Neill; 33 years; 93 Bloomfield Street, Dorchester; salesman.

Q. 2. You are Order Clerk for the firm of Edwin E. Babb & Company, who are dealers in school books and school supplies at No. 93 Federal Street in the city of Boston? A. Yes. 1858

Q. 3. Do you remember a call from a retail customer in or about January, 1910, for a book called Webster's Sterling Dictionary? A. Yes.

Q. 4. Please state what occurred upon that occasion. A. A gentleman came in and asked for Webster's Sterling Dictionary; told him we didn't have it and had never heard of it. Showed him the other Webster Dictionaries that we carried, published by G. & C. Merriam; he said no, the one that he wanted was called "Webster's Sterling Dictionary," and was published by the same company. I looked up G. & C. Merriam's price list and told him they had no such book listed; he said he was almost certain it was published by this concern; as there are books published of recent dates, we do not at all times know of them, and I advised him that I would write the G. & C. Merriam Company; I did so and they replied that they did not publish the book. 1859 1860

Q. 5. You sent to the Merriam Company your Order No. 77,032, for one Webster's Sterling Dictionary? A. That's right.

Q. 6. How did you come to think of the Merriam Company in this connection and what caused you to look up their list? A. The reason that the name of "Webster" was called for on the dictionary.

1861

John J. O'Neill—Cross.

CROSS-EXAMINATION by Mr. Bean:

x Q. 7. How long have you been with Babb & Company and familiar with the school-book business? A. Nineteen years; all the time with Babb & Company.

1862

x Q. 8. During that time has that concern to your knowledge carried any other Webster Dictionaries than those published by the Merriam Company? A. No; never carried; we have had in stock once or twice Laird & Lee's Dictionary come in with books that we bought.

x Q. 9. Does the Laird & Lee book have the name Webster in the title? A. That I couldn't say.

1863

x Q. 10. Have you ever observed any catalogues of dictionaries to see whether there were other publishers of dictionaries with the name Webster in their titles than the Merriam Company? A.

No, I have not.

x Q. 11. So that really the only publisher of Webster's Dictionaries which you had in mind when this customer called was the Merriam Company, and therefore you communicated with them about Webster's Sterling Dictionary? A. Yes.

x Q. 12. Do you know who publishes Webster's Sterling Dictionary? A. I didn't at the time; but since then found Saalfeld & Co., Akron, Ohio.

(EXAMINATION CLOSED.)

1864

John J. O'Neill.

IT IS STIPULATED that the oath of Horace G. Wadlin and his signature to his deposition are hereby waived. It is also stipulated that said deposition may be taken stenographically by a competent stenographer appointed by the Special Examiner and subsequently reduced to type-writing.

DEPOSITION OF HORACE G. WADLIN.

1866

DIRECT EXAMINATION by Mr. Hale:

Q. 1. What is your name, age, residence and occupation? A. Horace G. Wadlin; age 60; Redding, Mass.; librarian, Boston Public Library.

Q. 2. In times past have you been more or less familiar with Webster's Dictionaries? A. Yes, sir.

Q. 3. About how long have you known of that work? A. From my school days up to the present time.

1867

Q. 4. And of course you have Webster's Dictionary in the Library here? A. Yes, sir.

Q. 5. During the period of your acquaintance with Webster's Dictionary, what has been the standing and reputation of that work as an authoritative work of reference? A. Considered one of the leading authorities.

Q. 6. Will you please name the other standard dictionary authorities as they exist to-day? A. The Century Dictionary, the Standard Dictionary, the New Oxford Dictionary. Of course Worcester's Dictionary formerly had standing; don't know but what it does now.

1868

Q. 7. Who is the publisher of the Webster's Dictionary of standard authority to which you refer? A. G. & C. Merriam, Springfield, Mass.

Q. 8. How long have you known of them as publishers of Webster's Dictionary? A. Continuously as I remember; ever since I have had an intimate acquaintance with the book.

1869

Horace G. Wadlin—Direct.

Q. 9. When the term "Webster's Dictionary" is used to-day to refer to a dictionary authority, what book is intended? A. In my judgment the Webster's Dictionary published by the Merriams in its latest edition, I should say.

Q. 10. Do you know the full name of the latest or recent editions of the Merriams dictionary?

1870 A. Either the Imperial or the New International. If I remember rightly the latest edition is the Imperial; I mean that one where the pages are divided at the bottom.

Q. 11. I beg leave to inform you that the book to which you refer is called Webster's New International Dictionary and is published by the Merriams. A. Well, I thought it was, but I was not sure.

1871 Q. 12. Is there any Webster's Dictionary which is a standard established authority other than the Webster's Dictionary published by the Merriams in use to-day? A. Not as I understand the use of the term "standard authority." You mean of recognized standing among scholars?

Q. 13. I do. A. I should say not.

Q. 14. How does a dictionary acquire acceptance and standing as an authority? A. Through its general reputation, through a series of years as a work of reference.

1872 Q. 15. From an experience as a librarian and your acquaintance with dictionaries and works of reference, would a dictionary prepared by new publishers and editors who had had no previous connection with the established series of Webster's Dictionaries and which was merely based upon the old 1847 edition of Webster's Dictionary be the book understood to-day by the name of Webster's Dictionary? A. I think not.

Q. 16. And if such a book were just recently published would it have the standing and authority which Webster's Dictionary is understood to possess? A. I should say not.

Q. 17. Say, if you know, upon what particular books or editions the present standing and authority of Webster's Dictionary rests? A. Well, I should say on the Unabridged, which was published somewhere in 1864 or '65.

Q. 18. There was an edition of Webster's Unabridged Dictionary published in 1864, of which Noah Porter of Yale College was editor. Is that the book to which you refer? A. That is the book to which I refer and the subsequent revisions of that book published under different titles since. 1874

Q. 19. Webster's International Dictionary, of which Dr. Harris was the principal editor; is that what you mean? A. That's what I mean.

Q. 20. Would even a reprint of the 1847 edition of Webster's Dictionary have the authority and be the book commonly understood to-day by the name of Webster's Dictionary? A. I should say not. 1875

Q. 21. Are you aware that in recent years there have been dictionaries issued under the name of Webster's Dictionary which were not published by the Merriams? A. I understand that to be the fact from advertisements and from my information on the subject. I have never examined any of those books.

Q. 22. Does that fact alter any of the opinions which you have expressed upon this examination? A. No. 1876

Q. 23. Do you know whether or not any of those books have made their way and established a reputation and authority of their own under the name of Webster's Dictionary up to this time? A. They may have established an authority of their own; I don't think they have established a wide authority as standard dictionaries.

1877

Horace G. Wadlin—Cross.

CROSS-EXAMINATION by Mr. Bean:

x Q. 24. You do not undertake to testify, do you, Mr. Wadlin, as to whether or not other publishers than the Merriams may legally employ the name "Webster" to the titles of their books? A. No, sir; I know nothing about their legal rights in the matter.

1878 x Q. 25. You confine yourself simply to the question of the relative authority of such books and the books published by the Merriams? A. Yes, sir.

x Q. 26. You say that a reprint of the 1847 edition would not represent the latest authority in Webster dictionaries. Might it not yet be called a Webster's dictionary?

(BY MR. HALE): Objected to as calling for a mere opinion of the witness.

1879 (BY MR. BEAN): Insisted upon as the witness appears to be called in this examination simply to express his opinion.

(BY MR. HALE): The witness is called to testify to the facts within his knowledge as a skilled observer rather than to testify to mere matters of opinion.

1880 A. It might legally be called a Webster's Dictionary; I know nothing about that; but if so called I do not think it would be the book that is generally understood as Webster's Dictionary.

x Q. 27. If the name Webster's Dictionary were used in citation or as an authority for a definition or spelling, you would understand, would you not, that it referred to the latest Unabridged Webster's Dictionary of the Merriam Company? A. I should.

x Q. 28. You would not then think that such a reference applied to, for instance, their 1884 Abridged Dictionary known as Webster's Con-

densed Dictionary, would you? A. I would be inclined to think it referred to the latest edition, because I should think the latest edition of the work would be cited as reference.

x Q. 29. What, in your opinion, gave the original authority to the 1847 edition of the Webster's Dictionary published by the Merriams? A. I suppose the authority that attached to the 1847 edition or any earlier edition rested on the authority of the editor or author at that time, originally Webster himself. 1882

x Q. 30. Regardless of the question of authority, would not a revision of the 1847 edition of the Webster's Dictionary be, in your opinion, as much a Webster's Dictionary, even though not published by the Merriam Company, as would some intervening edition published by the Merriam Company? A. I don't think such a book would be understood to be Webster's Dictionary as that term is ordinarily used, if I understand your question. 1883

x Q. 31. Your opinion and observation is confined mainly, is it not, to the reputation and authority of Webster's Dictionary among scholars and literary men? A. Yes.

x Q. 32. You know nothing about to what extent the name of the Merriam Company is connected in the public mind with Webster's Dictionaries outside of literary circles? A. I have no means of measuring that as a matter of actual knowledge. I have an opinion about it. I think the public generally understand Webster's Dictionary to be the original Webster's Dictionary as revised and expanded under the publishers who have had control of that work through a long series of years. 1884

x Q. 33. Don't you think that the public mind, so far as the name Webster's Dictionary is understood to represent an authority, such opinion is

1885

Edwin D. Mead—Direct.

based upon the fact that it was originally prepared by Noah Webster, and the public generally think that a Webster's Dictionary that they now may purchase or would cite is a dictionary based upon and an extension or construction of the work of Noah Webster? A. I presume so.

1886 x Q. 34. In your testimony, Mr. Wadlin, and the opinions you have expressed, you do not undertake to enter upon the question of the propriety of the use of the name on dictionaries published by others than the Merriam Company? A. I do not know anything about the legal propriety of such use of the name.

(DEPOSITION CLOSED.)

(SIGNATURE WAIVED.)

1887

Post Office Building,
BOSTON, March 12, 1912.

Met pursuant to adjournment.
Counsel present as before.

EDWIN D. MEAD, a witness called on behalf of the complainant, having been first duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

1888 Q. 1. Please state your name, age, residence and occupation. A. Edwin D. Mead; 62 years old; 39 Newbury Street, Boston, Mass.; editor.

Q. 2. Please state the literary and historical work in which you have been engaged in times past? A. I am at the present time, and have been for several years, director of the World's Peace Foundation in Boston; I was previously, for 25 years, director of the Old South Historical Work in Boston, and editor of its publications.

Also for 12 years editor of the New England Magazine.

Q. 3. Has your work in these lines made you more or less familiar with the principal dictionaries in use in this country? A. Yes.

Q. 4. And have you known of the dictionary called Webster's Dictionary? A. Yes; I have constantly used it.

Q. 5. About how long have you known of Webster's Dictionary? A. Oh, 45 years, in its various editions. 1890

Q. 6. During this period what has been the standing and reputation of Webster's Dictionary as an authoritative reference work? A. Of the very highest among scholars and emphatically so with the general public.

Q. 7. Who has been the publisher of the Webster's Dictionary of this great reputation? A. G. & C. Merriam Company of Springfield.

Q. 8. Upon what edition does the present day reputation and standing of Webster's Dictionary rest? A. It rests upon the whole history and reputation of Webster's work from the beginning but preeminently upon the later editions, beginning with what we call the Unabridged, and especially upon the present International. 1891

Q. 9. There is, then, to-day a standard authoritative reference book known as Webster's Dictionary? A. Yes.

Q. 10. And it is published by whom? A. The G. & C. Merriam Company. 1892

Q. 11. Are you at all acquainted with the part taken in the development of Webster's Dictionary by Noah Porter of Yale and Dr. Harris, the U. S. Commissioner of Education? A. I am familiar with both of these men's work.

Q. 12. To what extent have their contributions contributed to the reputation and authority of the present day Webster's Dictionary? A. Very

1893

Edwin D. Mead—Direct.

greatly, because they have added to the earlier editions the results of later philological advance.

Q. 13. In view of this circumstance would even an exact reprint of the 1847 edition of Webster's Dictionary, which was published before Noah Porter had anything to do with it, be the book which is to-day understood and intended by the term Webster's Dictionary?

1894

(BY MR. BEAN): The form of the question is objected to as leading.

A. It would not in ordinary parlance. As a student of Noah Webster and a writer upon Noah Webster, as I have been, I refer to the successive editions of Webster from the beginning as Webster's Dictionaries. But the scholar and the man in the street to-day, speaking of Webster's Dictionary, would mean the revised editions.

1895

Q. 14. Revised by whom? A. Noah Porter as the chief editor, and William T. Harris as the chief editor.

Q. 15. And under the direction of what publisher? A. The G. & C. Merriam Company.

1896

Q. 16. Would a small book, which was merely "based" upon the 1847 edition of Webster's Dictionary, and which was prepared by publishers and editors who had previously had no connection whatever with the regular series of editions of Webster's Dictionary from that time down to this date, be the book commonly understood to-day by the term "Webster's Dictionary"? A. That I answer with more hesitation, speaking popularly. I think people who buy that kind of dictionary are not critical and don't draw fine lines; but if I asked for a small Webster's Dictionary of my bookseller, I should feel he would clearly understand I meant the small edition based upon the Merriam publication.

Q. 17. Do you know of any dictionary pub-

lished under the name of Webster other than those published by the Merriam Company which has established itself as an authoritative accepted reference work? A. Among scholars, not. All scholars would insist upon the later editions. I have seen editions not published by Merriam and casually used them, but should not do it critically.

Q. 18. Have any of such books acquired the standing of an accepted authority in the sense that the Webster's Dictionary published by the Merriams have? A. Certainly not. 1898

CROSS-EXAMINATION by Mr. Bean:

x Q. 19. Fundamentally and primarily, the authority of a Webster's Dictionary rests upon the reputation and ability of Noah Webster as a philologist and dictionary maker, does it not? A. In the same sense that that was true of Dr. Johnson.

x Q. 20. Do you not think that the public at large, personified as "the man on the street," as you have phrased it, when they buy a Webster's Dictionary, do so because of the reputation and ability and because of their general knowledge that a man named Webster was many years ago the compiler and author of a dictionary bearing his name? A. Roughly speaking, yes—the uncritical public. 1899

x Q. 21. You are familiar, I presume, in a general way with the copyright laws of this country and their operation? A. Generally, yes. 1900

x Q. 22. Would you not say that a dictionary based upon the work of Noah Webster and upon an edition of a dictionary published shortly after his death, upon which the copyright expired in or about the year 1889, might truthfully be described as a Webster's Dictionary based upon his work, leaving out of consideration the authority of such a work? A. I think it might.

1901

Edwin D. Mead—Cross.

x Q. 23. But I take it that you would undoubtedly be of the opinion that such a dictionary, if edited by persons in no way connected with the Merriam Company, and published by a house independent of that house, would not have the authority and would not be as reliable as a book of reference as would a dictionary of the series published by the Merriam Company since Webster's death? A. That precisely states my position, because the Merriam Company are recognized as the authorized or regular publishers and because the revisions during their publication are recognized by scholars as having been distinctly the most scientific and valuable.

1902

x Q. 24. When you speak of the Merriam Company as the "authorized" publishers of Webster's Dictionaries, will you explain just what you mean? A. I mean what I should mean in speaking of Houghton & Mifflin, who are the successors of Ticknor and Fields, as the authorized and regular publishers of Emerson and Longfellow, although editions of some of their books published since the expiration of copyright might with strict legality be issued by other publishers.

1903

x Q. 25. So that it is your opinion that editions of Webster's Dictionaries or of Dictionaries bearing the name of Webster in their titles might, with "strict legality," be, in your opinion, issued by other publishers than the Merriam Company?

1904

(BY MR. HALE): Objected to as calling for the opinion of the witness upon a question of law.

(BY MR. BEAN): The question is insisted upon because the witness is as competent to speak of the "strict legality" of the publication of Webster's Dictionaries as he has undertaken to be of the "strict legality" of editions of Emerson's and Longfellow's works.

A. Yes, with this difference in the two cases; that works by Emerson and Longfellow naturally do not go through a revision, whereas dictionaries constantly do, and their significance and value, so far as changes go, depend upon the character of the revision.

x Q. 26. Doesn't your answer amount to this, then: That when you speak of "significance" and "value," you mean authority and reliability, and do not undertake to differentiate in the two cases on the question of strict legality? A. I think I do not differentiate, with this reserve: that if successive editions had been published of Webster's Dictionary since this earlier revision now reprinted, the common mind would assume by "Webster's Dictionary" what Webster's Dictionary had become, and there is the ambiguity. 1906

x Q. 27. In answer to a question in your direct examination, I understood you to say that a small book based upon the 1847 edition of Webster's Dictionary, if edited by persons in no way connected with the Merriam Company and published by someone else than the Merriam Company, would not have the authority or be the book invoked as an authority when a reference should be made to Webster's Dictionary? A. That is my statement. 1907

x Q. 28. Would you consider a small or abridged dictionary published by the Merriam Company in 1884, and in fact entitled, "Webster's Condensed Dictionary," to be the book invoked as an authority to-day by a reference to Webster's Dictionary? A. No. 1908

x Q. 29. Would you consider this dictionary which I described in my last question any more of an authority to-day than a dictionary based upon said 1847 edition, prepared and edited in or about the year 1904, by persons not connected with the Merriam Company and published by some other

1909

Edwin D. Mead—Cross.

concern than the Merriam Company? A. If the recent edition of which you speak had been in the hands of thoroughly good scholars I should certainly respect it as much as the earlier abridged edition of the Merriams.

x Q. 30. The relative authority of the two, then, would in your mind be simply a question of the scholarship of the respective editors of the two
1910 books, taking into account, also, that one was edited and published twenty years before the other? A. That describes it.

x Q. 31. Then if you were to ask a bookseller for a small dictionary based upon a Merriam publication in the way you described in one of your direct answers, and the bookseller should offer you the dictionary which I just described, published in 1904, would you not be getting what you asked for? A. I should feel that if I asked for a small
1911 or condensed Webster's Dictionary and was given a condensed dictionary based upon this old edition on which the copyright has expired, instead of a condensed dictionary based not upon the Merriam publication of 1884, but a later Merriam publication of the condensed edition, that I was defrauded.

x Q. 32. That is to say that the fact that it was not published by the Merriam Company would make it a fraud? A. I would not say that it was a fraud not to be published by the Merriam Company, but to let it be sold without explanation to the ordinary man, I think would deceive the man.
1912

x Q. 33. Would you not consider the imprint of another publishing house on the title page such an explanation as you referred to in your last answer? A.

(By MR. HALE): Objected to as calling for the mere opinion of the witness as to what would be a sufficient distinguishing statement.

(BY MR. BEAN): Question is insisted upon because the witness is here to express his opinions on the question involved in this case.

(BY MR. HALE): On the contrary, the witness has been called merely to testify to facts within his knowledge as a skilled observer and not to express personal opinions.

1914

A. I think it would not be adequate protection because the multitudes of good and thoughtful people are not critically familiar with publishers and do not look at a publisher's imprint on the title page.

x Q. 34. If the title page were to include the statement "This dictionary is not published by the original publishers of Webster's Dictionary or by their successors," would not such statement be, in your opinion, a sufficient explanation?

1915

(Same objection.)

A. If this statement were clearly and distinctly brought to the attention of the purchaser, it might be.

x Q. 35. You do not claim or undertake to testify as to the legal propriety of the use of the name Webster in the titles of dictionaries by other publishers than the Merriam Company? A. I am not an expert lawyer.

1916

x Q. 36. And you are unfamiliar with the decisions of the court upon this question? A. Practically unfamiliar. Speaking roughly, if a man chooses to reprint the very first old editions of Webster's Dictionary it is his privilege and the editions would have an historical and curious interest.

x Q. 37. You do not know whether or not the courts have decided that revisions of such early

1917

Edwin D. Mead—Re-direct.

editions may be prepared and issued by other publishers?

(BY MR. HALE): This question and this line of examination is objected to as incompetent, irrelevant and immaterial, as calling for the opinions of the witness on matters of law, and as not proper cross-examination.

1918

(BY MR. BEAN): The question is insisted upon because it does not ask for the opinion of the witness upon questions of law with which he has disclaimed any knowledge, but simply as to whether he is familiar with the decisions of the courts upon the point involved in the question as a matter of fact.

A. I do not know.

1919

RE-DIRECT EXAMINATION by Mr. Hale:

Re-D. Q. 38. You have compared and contrasted reprints of such works as those of Emerson and Longfellow upon which the copyright has expired with reprints of old editions of Webster's Dictionary. It is true, is it not, that if a person purchases a reprint of Emerson or Longfellow from some publisher other than the regular or original publisher he nevertheless gets the same literary composition which he intended to buy?

1920

A. He does.

Re-D. Q. 39. When an average purchaser calls for a Webster Dictionary to-day and in place of being given a copy of the current editions of the Merriam Company is given a reprint of the old obsolete expired edition, does he or does he not obtain the same literary composition that he had in mind to buy?

(BY MR. BEAN): Objected to since it is

manifestly impossible for the witness to know what dictionary a purchaser has in mind to buy, and can only testify as to what he would have in mind himself to buy.

A. He does not obtain what I am confident the ordinary man intends to buy.

Re-D. Q. 40. Putting the question another way, is or is not a reprint of the obsolete expired 1847 edition, which has been off the market since 1864, the identical literary composition generally known to-day as Webster's Dictionary? A. It is not the composition generally known to-day as Webster's Dictionary. 1922

Re-D. Q. 41. I presume a book which was merely based upon the obsolete expired 1847 edition and not based upon the subsequent famous copyrighted editions would be still less the literary composition understood to-day by the general public as Webster's Dictionary? A. I should not say still less understood by the general public; I don't think the general public would distinguish between the two. 1923.

Re-D. Q. 42. You have spoken, in answer to Mr. Bean's question as to the authority of a dictionary made in a supposed manner and based upon an early Webster dictionary would have if made by competent scholars. Were you speaking of intrinsic merit or of reputation for accuracy and accepted authority? A. I was speaking of intrinsic merit. 1924

Re-D. Q. 43. Does the average person, whom we have termed the "man on the street" know the name of the respective publishers of the well-known reference works called Webster's Dictionary, the Standard Dictionary and the Century Dictionary? A. I doubt whether one such man in ten knows the publisher of the Standard Dictionary; I think most men likely to buy the Century are of such intelligence and standing that

1925

Edwin D. Mead—Re-direct.

they would naturally know the publishers; and most people know that the Merriams have always been the publishers of the Webster Dictionaries—most scholarly people, I mean.

Re-D. Q. 44. How about the man in the street?

A. I doubt whether the man in the street remembers that the Webster's Dictionaries are published by the Merriams.

1926

Re-D. Q. 45. If utilizing the reputation which Webster's Dictionaries, as published by the Merriams have acquired as reliable and authoritative reference works, some other publisher should issue a new dictionary and sell it as a Webster's Dictionary, would or would not the average purchaser be deceived into thinking he was obtaining the book published by the Merriams?

(BY MR. BEAN): Objected to since it appears from the witness' testimony that he is not and does not claim to be competent to answer the question.

1927

A. I think he would be deceived.

Re-D. Q. 46. And what effect would the fact that he did not know that Merriam was the name of the publisher of the famous Webster Dictionary have in that regard, if any? A. I think the fact that Merriams' name was not on the imprint would not affect lots of people as thinking they were getting

1928

what we ordinarily speak of as Webster's Dictionaries when we mean the Merriam editions.

Re-D. Q. 47. If a man wanted to buy a Webster's Dictionary to-day because he thought the reputation and authority of Webster's Dictionary was greater than that of the Standard or Century Dictionaries, and therefore preferred it, and instead of being given a current edition of Webster's Dictionary as published by the Merriams was given a new dictionary which was merely based upon the expired 1847 edition, would he be

getting the book that had the reputation which induced him to buy it? A. He would not.

Re-D. Q. 48. You have stated in answer to Mr. Bean, that a reference in the form of "Webster's Dictionary," would not be understood to refer to the specific book entitled Webster's Condensed Dictionary, published and first copyrighted by the Merriams in 1884. What book would be generally understood as intended by that reference if made to-day? A. Webster's International Dictionary. 1930

Re-D. Q. 49. Published by whom? A. G. & C. Merriam Company.

Re-D. Q. 50. In other words, such a reference as authority refers to the large or Unabridged Dictionary and not to one of the small abridgments? A. It does.

Re-D. Q. 51. In speaking of cautionary explanations, you stated in answer to x Q. 34, that a statement in this form: "This dictionary is not published by the original publishers of Webster's Dictionary or by their successors," might be a sufficient explanation if clearly and distinctly brought to the attention of the purchaser. Were you referring to an explanation as to the publisher or an explanation sufficient to prevent confusion between different editions of Webster's Dictionary? A. The latter. The purchaser would know then,—would at least be informed what he was getting,—and if he chose to take it, that is his affair. 1931

Re-D. Q. 52. How would such a statement inform the purchaser, for example, that he was getting the 1847 edition and not one of the later editions which have been recently in current use? A. It would not inform him, but it would raise the question critically and undoubtedly lead him to inform himself before purchasing. 1932

RE-CROSS EXAMINATION by Mr. Bean:

Re-x Q. 53. If an average purchaser, using that

1933

Edwin D. Mead—Re-cross.

description in the same sense that it is used by Mr. Hale in Re-D. Q. 39, were to call for a Webster's Dictionary to-day, and were to get the abridged dictionary published by the Merriam Company in 1884, and entitled "Webster's Condensed Dictionary," which dictionary was an abridgment of the 1847 edition of Webster's Dictionary, or of the 1864 edition of Webster's Dictionary, both published by the Merriam Company, and on both of which the copyright has now expired, would he, in your opinion, obtain the same literary composition that he had in mind to buy?

1934

(BY MR. HALE): Objected to as incompetent, irrelevant and immaterial, and as not within the issues; and further because the question incorrectly recites that the book named was an abridgment of the 1847 edition, which is not true, said book being an abridgment made in 1884, of the last preceding edition of the famous Webster's Unabridged Dictionary.

1935

(BY MR. BEAN): The question is insisted upon, since it is identical with Re-D. Q. 39 asked by Mr. Hale, except that it substitutes Webster's Condensed Dictionary, issued in 1884, for a reprint of an "obsolete expired edition," and since it describes said edition of 1884 as an abridgment of either the 1847 edition or the 1864 edition of Webster's Unabridged Dictionary, said 1864 edition being in 1884 the latest revised unabridged Webster's Dictionary of the Merriam Company.

1936

A. He would not if, as is certainly true, there are subsequent editions of the condensed or abridged dictionary.

(DEPOSITION CLOSED)

EDWIN D. MEAD.

William B. Clarke—Direct.

1937

WILLIAM B. CLARKE, a witness called on behalf of the complainant, having first been duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation. A. William B. Clarke; 63; Weston, Mass.; bookseller.

Q. 2. What is the name of your company? A. 1938
W. B. Clarke Company.

Q. 3. Located here in Boston? A. Yes.

Q. 4. What is your position with the company?
A. President and treasurer.

Q. 5. How long have you been engaged in the buying and selling of dictionaries as part of the book trade? A. About 45 or 46 years.

Q. 6. Have you bought and sold Webster's Dictionaries during that period? A. I have.

Q. 7. In the book trade what book is meant by the term "Webster's Dictionary" when called for by the average purchaser? A. The latest edition by whatever name it may be called. 1939

Q. 8. The latest edition of the dictionary published by whom? A. G. & C. Merriam Company.

Q. 9. And for how long has this been true? A. I don't remember any time when it was not true since I have been in the business.

Q. 10. I presume you have sold many copies of Webster's Dictionary? A. I have.

Q. 11. And with whose book have you always filled orders for Webster's Dictionary? A. The Merriam book. 1940

Q. 12. Did you ever receive a complaint that the purchaser expected to receive some other book? A. Never.

Q. 13. How would an order for a Webster's Dictionary given to-day be properly filled? A. That is a question which needs a little explanation. All things being equal, we should send the largest and

1941

William B. Clarke—Direct.

best edition then in existence published by the Merriams, my doubt being that the possibility of the Webster's Collegiate being the book desired.

Q. 14. Who publishes the Webster's Collegiate Dictionary to which you have referred? A. G. & C. Merriam.

Q. 15. If the order was for a small Webster's Dictionary, what book would be intended? A. We would risk the Collegiate.

Q. 16. You mean the Webster's Collegiate of G. & C. Merriam Company? A. G. & C. Merriam Company.

Q. 17. Would an order for Webster's Dictionary given to-day be understood to refer to Webster's Dictionary of 1847 upon which the copyright has expired? A. No, sir.

Q. 18. What would be the fact in that regard as to an abridgment of the 1847 recently made by new publishers and new editors who had never previously had any connection with the regular series of Webster's Dictionaries? A. Unless specifically called for, it would not be considered in filling the order.

Q. 19. During all the period of your acquaintance with them, what has been the reputation and standing of Webster's Dictionaries? A. Generally very high, with the slight exception for a predilection for Worcester in Boston and vicinity.

Q. 20. Does the reputation and standing of the Webster's Dictionaries to which you have referred have any effect upon their sales? A. I should think so, very decidedly.

Q. 21. The Webster's Dictionary of great reputation to which you have referred is the Webster Dictionary published by whom? A. G. & C. Merriam.

Q. 22. When you speak of the reputation and standing of Webster's Dictionaries, do you refer to the current editions of the Merriams in use in

William B. Clarke—Direct.

1945

recent years or of the early editions published at least more than 50 years ago? A. I refer to the most recent editions in all cases.

Q. 23. From your experience as a bookseller, would it be possible for a new dictionary to be published and sold under the title of Webster's Dictionary by third persons, which would not be confused with the Webster Dictionaries published by G. & C. Merriam Company now in current use and which would not be to a greater or less extent benefited in the way of increased sales from the reputation and standing which the Merriam Company's copyrighted editions of Webster's Dictionary have acquired under that name? A. Impossible to be otherwise. 1946

Q. 24. What, in your opinion, is the minimum money value of the good will and reputation of the Merriam Company's Webster Dictionaries?

(By MR. BEAN): Objected to as incompetent and immaterial and because it does not appear that the witness is competent to answer the question. 1947

A. Impossible to estimate without a knowledge of the capital invested, average cost of production per copy, and gross sales per annum.

Q. 25. Can you not place a minimum figure in view of your knowledge of the Webster Dictionaries in the market? 1948

(By MR. BEAN): Same objection and because the witness has stated that it is impossible without certain data to furnish an estimate.

A. It would only be a guess and not of value.

Q. 26. Do purchasers generally know the name of the publisher of the Webster's Dictionary of great reputation, which you say has always been

1949

William B. Clarke—Cross.

published by the Merriams? A. Only a portion of the customers remember the actual name of the publisher of the book.

Q. 27. Can you say whether or not, in spite of this fact, the average purchaser does mean the dictionary published by the Merriam Company when the asks for a Webster Dictionary? A. The average purchaser does mean such edition or editions.

1950

CROSS-EXAMINATION by Mr. Bean:

x Q. 28. In answer to Q. 7 you have said that by the term "Webster's Dictionary," it meant the latest edition by whatever name it may be called. Would, then, an order for the Webster's Dictionary in your mind ever mean, unless the edition were specified, Webster's Condensed Dictionary, published by the Merriam Company first in 1884? A. It would not.

1951

x Q. 29. Ever since you have been in the book-selling business, have you been a customer of the Merriam Company? A. I think we have always bought direct.

x Q. 20. Have you ever carried any Webster Dictionaries except those published by the Merriam Company? A. Only second-hand copies or possibly a small pocket dictionary which may have been called Webster, but which we did not carry habitually.

1952

x Q. 31. So that naturally in filling orders for Webster's Dictionaries you have, without question, filled them with dictionaries published by the Merriam Company? A. Naturally, because we declined to buy other Webster dictionaries than those published by the G. & C. Merriam Co.

x Q. 32. In other words, you have and have always had a predilection and decided preference for the Webster dictionaries published by the Mer-

riam Company over the Webster dictionaries published by anyone else? A. Yes.

x Q. 33. Have you any idea how many different Webster Dictionaries have been published by others than the Merriam Company? A. I don't know.

x Q. 34. If you were carrying in stock Webster Dictionaries published by both the Merriam Company and other publishers, would you be able to tell how to fill an order which simply called for a Webster Dictionary? 1954

(By MR. HALE): Objected to as incompetent, irrelevant and immaterial, because not calling for any act, fact or declaration, but for mere guess as to what the witness would do under certain supposed circumstances not shown to exist.

A. Not a suppositious case, because my policy has been consistently to carry only the Webster Dictionaries published by the G. & C. Merriam Company, except for the slight variation already alluded to. 1955

x Q. 35. Do you know whether among booksellers generally Webster's Dictionaries, published by others than the Merriam Company, are carried in stock and sold along with those of the Merriam Company or without those of the Merriam Company? A. I do not know. 1956

x Q. 36. You are familiar, I presume, with the copyright laws and their operation?

(By MR. HALE): This line of question objected to as incompetent, irrelevant and immaterial, as calling for the conclusions of the witness on matters of law, and as not proper cross-examination. This objection is to apply to subsequent similar questions without being repeated.

1957

William B. Clarke—Re-direct.

A. My knowledge of this very large subject is very slight.

x Q. 37. Do you not know that after the lapse of a certain term of years copyright protection expires? *

1958

(By MR. HALE): This question is further objected to upon the ground that the defendant admits it is not publishing a copy of Webster's Dictionary on which the copyright is expired, and the question is therefore irrelevant and immaterial.

1959

A. I have knowledge of the varying limits as to length of copyright and I happen to have knowledge of the recent decision in the case of White, Smith & Co. and Goff, whereby Judges Putnam, Lowell and Aldrich held that there was a question as to assignment and as to whether an assignment of a copyright could be made after the first period of 28 years.

x Q. 38. You know, however, that period of copyright protection is provided by statute, do you not? A. Yes, sir.

RE-DIRECT EXAMINATION by Mr. Hale:

1960

Re-D. Q. 39. What is the basis of your preference or predilection for the Merriam Webster Dictionaries which you have expressed? A. Simply as the original producers and because I value the quality of their present production.

Re-D. Q. 40. Have the so-called Webster's Dictionaries of any other publisher than the Merriams acquired the standing, reputation and good will which the Merriams' Webster Dictionaries enjoy? A. Not to my knowledge.

Re-D. Q. 41. You stated that a reference merely in the form of Webster's Dictionary would not be understood to refer to the 1884 edition of Web-

John Quincy Adams—Direct.

1961

ster's Condensed Dictionary which was issued by the Merriams; why is this? A. I don't think I understand that question.

Re-D. Q. 42. Did you mean to say that the phrase Webster's Dictionary would not be understood to refer to Webster's Condensed Dictionary of 1884, which was a book issued in that year by the Merriam Company?

(By MR. BEAN): Objected to, as the witness has already testified that he understands a reference to Webster's Dictionary to mean the latest edition of the Webster's Dictionary published by the Merriams.

1962

A. I still mean that the latest edition would be always considered; the question of that exact date and that exact title I am not sure, because I am not sure whether there has been a later edition of that particular book or not.

1963

(DEPOSITION CLOSED.)

William B. Clarke.

JOHN QUINCY ADAMS, a witness called on behalf of the complainant, having first been duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by M. A. Hale:

1964

Q. 1. Please state your name, age, residence and occupation. A. John Quincy Adams; 28; Brookline, Mass.; publisher.

Q. 2. How long have you been engaged in the publishing business? A. Approximately 10 years.

Q. 3. During that period have you also purchased and sold dictionaries? A. Yes, we have

1965

John Quincy Adams—Direct.

been the New England sales office for G. & C. Merriam Company.

Q. 4. What is the name under which the G. & C. Merriam Company's dictionaries are sold? A. Webster's Dictionaries.

Q. 5. Has your experience been such that you know what book is meant by the average purchaser of dictionaries when he refers to or calls
1966 for Webster's Dictionary? A. It has.

Q. 6. What book is commonly intended when a Webster's Dictionary is called for? A. Usually the last edition published by the G. & C. Merriam Company.

Q. 7. What are the reputation and standing of the Webster Dictionary as a book of reference?
A. Webster's Dictionary to-day, as during the last sixty years, has the very highest standing, being the authority of some courts and having recognition as the leading dictionary by a majority of the
1967 educators.

Q. 8. Who is the publisher of the Webster's Dictionary which has the standing and reputation which you have stated? A. G. & C. Merriam Company of Springfield, Mass.

Q. 9. State whether or not a reprint of the 1847 edition of Webster's Dictionary would be the book intended by an order given to-day for a Webster's Dictionary? A. It would not be intended, and
1968 should we fill an order from the 1847 edition, it would in 99 cases out of 100 dissatisfy the customer.

Q. 10. Have you any knowledge as to the use of the Merriam Company's Webster Dictionaries in the schools of this country? A. I know it has a very large use in the school systems of America: our own office supplies many of the large school systems in New England with the Merriam "Webster."

John Quincy Adams—Direct.

1969

Q. 11. Are you aware of the fact that in recent years publishers other than the Merriams have issued dictionaries using the name "Webster's" in the title? A. I am, because our salesmen are constantly running across customers who have purchased Webster's dictionaries not published by the Springfield company, and in the majority of cases these people state that they thought they were buying a Merriam Webster.

1970

(By MR. BEAN): Objected to as being plainly hearsay.

Q. 12. State, if you know, whether or not any of these so-called Webster Dictionaries not published by the Merriams, or in the regular series, have acquired any standing and reputation of their own as authoritative reference books? A. I have never seen any evidence to show that the books referred to in question have any standing as authorities.

1971

Q. 13. What is the general nature and character of these so-called Webster Dictionaries not published by the Merriams?

(By MR. BEAN): Question objected to as too vague and indefinite to admit of an answer.

A. My impression is that the dictionaries referred to are for the most part reprints and are practically books which are out of date.

1972

Q. 14. What effect upon the sales of a dictionary under the name of Webster has the good reputation, standing and authority which Webster's Dictionary has acquired? A. I don't believe I understand that question.

Q. 15. You have stated that Webster's Dictionary has acquired a high standing, reputation and authority. What effect upon sales does that repu-

1973

John Quincy Adams—Direct.

tation have? A. That reputation has a very beneficial effect upon the sales, and means, from the selling standpoint, a very large asset.

Q. 16. State, if you know, the minimum money value of the good-will and reputation symbolized by the name "Webster" as applied to a dictionary?

1974

(By MR. BEAN): Objected to as irrelevant and immaterial, also because it does not appear that the witness is in possession of such detailed information as would be necessary for him to give an opinion, approximating the fact.

A. I should say such good-will would be worth upwards of \$500,000.

Q. 17. From your knowledge of the dictionary business, would it or would it not be possible for some other publisher to publish a new dictionary calling it Webster's Dictionary, which book would not benefit in the way of sales by the good-will and reputation which you have said the Merriam Company's Webster's Dictionaries now enjoy? A. From my knowledge of the dictionary business during ten years, I should say that any book published by others than the Springfield Merriams would profit tremendously by the use of the Webster name and reputation.

1976

Q. 18. Can you explain just why that is so? What I want is a statement from your experience of how the name Webster affects prospective purchasers of dictionaries, and what effect it has in effectuating sales? A. The name Webster, through the efforts of the G. & C. Merriam Company for more than half a century, has become synonymous with the highest possible scholarship and the best in every quality. This reputation which the name has inspires customers with con-

fidence, which is a very large aid to the sale of Webster's dictionaries, because the firm of G. & C. Merriam Co. is very widely known and favorably known.

Q. 19. Which are the books with this reputation, the current Webster Dictionaries of the Marriam Company or the expired edition of 1847? A. To-day the current edition of the Merriam Company.

Q. 20. Would a new book issued by publishers 1978 who have never heretofore had any connection with the established series of Webster Dictionaries but which was based to a greater or less extent upon the expired 1847 edition, be the book which to-day has the reputation which you have stated belongs to Webster's dictionaries? A. This would not be the book which has such reputation.

Q. 21. Upon what particular editions does the present day reputation of Webster Dictionary mainly rest? A. My judgment is it rests largely 1979 on editions published since 1890.

Q. 22. Have you, in your dictionary business, in any way met with or felt the competition of other so-called Webster Dictionaries which were not issued by the Merriams? A. Yes, we have felt this competition to the damage of our own sales in several ways.

Q. 23. Please state in your own way what you have observed as to this competition and in the way in which it has been carried on? A. This competition has affected the results of our salesmen in different parts of New England by reason of the fact that people needing dictionaries have purchased books published by others than the Merriam Company and have stated to our salesmen that they bought these books supposing they were the regular legitimate series which have for so many years been known as Webster's Dictionaries. We have felt the competition keenly in cer- 1980

1981

John Quincy Adams—Cross.

tain centers where these other books have been advertised; our customary spring and fall advertisements have been in some instances rendered valueless by reason of a large distribution of these other books. A large number of people have told our salesmen that there is general dissatisfaction in their community with the purchase of Webster's Dictionaries, and on inquiry the salesmen

1982 have found that the books purchased have invariably been those issued by some concern other than G. & C. Merriam; this general discontent has affected the whole dictionary market.

(By MR. BEAN): I object to so much of the answer as is hearsay and ask that it be stricken out.

Q. 24. Do your salesmen make these reports to you in the ordinary and regular course of your

1983 business? A. Yes, these reports are made for the most part daily.

CROSS-EXAMINATION by Mr. Bean:

x Q. 25. If the Merriam Company's dictionaries were the only dictionaries having the name Webster in their titles, you would undoubtedly sell more dictionaries of the Merriam Company, wouldn't you? A. We undoubtedly would sell more dictionaries.

1984 x Q. 26. That is to say, competition, leaving out of account the legality of it, hurts your sales? A. Competition of this kind which creates dissatisfaction among the customers and creates a lack of confidence with the dictionary market generally, is harmful. Our office has always welcomed good, honest, straightforward competition, which arouses interest and stimulates the market.

x Q. 27. But you do not think there would be any good, honest competition on the part of anybody

who puts the name "Webster" in the title of the dictionary; that's the idea, isn't it? A. I do not feel there is good, honest competition on the part of anyone who sells a competing article under a misrepresentation.

x Q. 28. Is it necessarily in your mind misrepresentation to put the name "Webster" in the title of the dictionary? A. Customers who feel they are buying a Merriam Webster, and then buy a dictionary published by someone else, tell my salesmen that it is a misrepresentation. 1986

(By MR. BEAN): I object to the answer and move that it be stricken out.

x Q. 29. I now repeat my last question. A. I think it is.

x Q. 30. I suppose you do not pretend to testify in this case upon its legal aspects, but simply from your position as a distributor of Webster's Dictionaries as published by the Merriams; is that right? A. Yes, that's about the size of it, with this added: that we are pretty well identified with the publishing world, handling other books besides the dictionary in our business, and because of that I probably know more about the dictionary market than the average man. 1987

x Q. 31. Are you familiar with the decisions of the courts with reference to the rights of the public to use the name Webster in the title of dictionaries, and the limitation placed upon such rights? 1988

(By MR. HALE): Protest is again made against this obviously incompetent and irrelevant line of examination upon matters of law which can have no effect but to needlessly swell the record.

A. I can't say that I am.

x Q. 32. In your book business you have never

1989

John Quincy Adams—Cross.

handled any other Webster Dictionaries than those published by the Merriams, have you? A. I never have.

1990 x Q. 33. And when you say, as you do in your direct examination, that when a Webster's Dictionary is called for the book intended is usually the last edition published by the Merriam Company, you base that opinion upon your business experience as handling Merriam's Dictionaries exclusively? A. I base that opinion upon the fact that we always ship Merriam's Dictionary, and I have yet to hear the first complaint.

x Q. 34. You advertise yourselves as agents for and distributors of Merriam's Webster's Dictionaries? A. I can't recall the phrasing of the ads exactly.

x Q. 35. You hold yourselves out as agents for the Merriam Company? A. Yes.

1991 x Q. 36. Then naturally you would expect orders you would receive for the Merriam Company's books, wouldn't you? A. That doesn't necessarily follow.

x Q. 37. You never, in fact, had an order that you know of except for the Merriam Company's Webster Dictionary? A. I can't recall that we have at this moment.

1992 x Q. 38. All your knowledge of the dictionary business upon which you have based your opinions have come from your agency for the Merriam Company, has it not? A. I should say it comes from conducting the publishing business for ten years.

x Q. 39. In answer to one of Mr. Hale's questions you said that in your opinion, if you should fill an order with an 1847 edition, it would in 99 cases out of 100 dissatisfy the customer; that opinion, I suppose, is based upon the fact that the 1847 edition is antique now? A. It is not only antique, but it is misleading. Language changes.

John Quincy Adams—Cross.

1993

x Q. 40. Don't you think that the reputation of the Merriam Webster's Dictionary is to some extent based upon the reputation and work of Noah Webster? A. I should say Noah Webster played his part in building up the reputation of the Webster Dictionary.

x Q. 41. But you think his position as regards the reputation now is secondary and insignificant? A. I shouldn't want to place Noah Webster in his niche of fame. 1994

x Q. 42. You are not, however, prepared to say that some part of the reputation of the Webster Dictionaries is not now due to Noah Webster? A. I presume Noah Webster played his part in building up the reputation of the Webster Dictionary.

(DEPOSITION CLOSED.)

John Quincy Adams.

1995

IT IS HEREBY STIPULATED by and between counsel for the respective parties that the affidavit of Andrew S. Draper, filed upon the motion for a preliminary injunction herein and verified the 18th day of December, 1911, shall be read and inserted into the record for use at final hearing with the same force and effect as if the same had been regularly taken before an Examiner of this Court by way of question and answer, but subject to all objections upon the ground of relevancy or materiality. 1996

(ADJOURNED WITHOUT DATE.)

(Printing of Special Examiner's certificate is omitted, by consent.)

1997

Affidavit of Andrew S. Draper.

STATE OF NEW YORK, }
 County of Albany, } ss.:

ANDREW S. DRAPER, being first duly sworn, deposes and says:

I reside at Albany, New York, and am the Commissioner of Education of the State of New York. I have held that position since April 1st, 1904. I have been engaged in educational work since 1886. I was State Superintendent of Public Instruction in this State from 1886 to 1892. I was Superintendent of Instruction of the Cleveland, Ohio, public schools from 1892 to 1894. I was President of the University of Illinois from 1894 to 1904, since which time I have been Commissioner of Education in New York State.

I am familiar with the principal standard dictionaries used in this country.. The Webster Dictionaries are looked upon as the leading standard dictionaries of this country, though, of course, there are other dictionaries of recognized value and standing. The Webster dictionaries to which I refer have always been published by the Merriams of Springfield, Mass. I have been acquainted with their Webster dictionaries practically all my life. I have personally owned a Webster's Unabridged Dictionary for forty years, that is to say, that dictionary and its successor the Webster's International Dictionary, all published by the Merriams. Webster's Dictionary has acquired an authority by reason of general use and the common approval of intelligent people. The high authority of Webster's Dictionary to-day rests most largely upon the edition called Webster's International Dictionary. That is the book now generally understood and intended by the name Webster's Dictionary.

The last published dictionary in the series published by the Merriam Company and their predecessors would have greater authority than a new dictionary bearing the title Webster, issued by other publishers and produced by other editors.

Affidavit of Andrew S. Draper.

2001

I have no hesitation in saying that such would be the fact at the beginning although of course a new book could doubtless be produced by other publishers which might win its way to acceptance and an authority and standing of its own, upon its merits, but it would not start with the authority and prestige which have been established for the Merriams' Webster's Dictionary and for that reason it would be wrong to call it Webster's Dictionary. It is my belief that the universal association of the Merriam firm with the Webster's dictionaries and the widely acknowledged excellence of their work, give their dictionaries an authority which no new dictionary could possibly have upon first publication.

2002

The educational department of the State of New York authorized the purchase of Webster's dictionaries for use in the schools of the state as a standard authority. The book meant by Webster's dictionaries in such authorization is the book published by the Merriams. The Webster's Dictionary published by the Merriams is now used in the schools of New York, because at the present time it is the Webster's Dictionary which is recognized as having authority. I should add by way of explanation, so that no warrantable inference shall be drawn, that this Department does not undertake to determine what dictionaries shall or shall not be used in the schools of the State. The way in which the Department approval has come to be expressed for the Webster Dictionaries is consequent upon the fact that the State appropriates money to School libraries and other libraries for the purchase of approved books, and the Webster dictionaries are among the approved books. I mean, of course, the Webster dictionaries published by G. & C. Merriam Company.

2003

2004

ANDREW S. DRAPER.

Subscribed and sworn to before me }
this 18th day of December, 1911. }

HONORE H. GREENE,

[SEAL.]

Notary Public.

2005 DISTRICT COURT OF THE UNITED
STATES,

SOUTHERN DISTRICT OF NEW YORK.

2006	<div data-bbox="298 414 754 487">G. & C. MERRIAM COMPANY, Complainant,</div> <div data-bbox="484 524 526 551">vs.</div> <div data-bbox="313 578 754 651">CUPPELS & LEON COMPANY, Defendant.</div>	Equity 8-161.
2007	<div data-bbox="303 709 754 782">G. & C. MERRIAM COMPANY, Complainant,</div> <div data-bbox="484 815 526 842">vs.</div> <div data-bbox="272 873 754 946">SYNDICATE PUBLISHING COMPANY, Defendant.</div>	Equity 8-162.

TESTIMONY IN REBUTTAL.

SPRINGFIELD, MASSACHUSETTS.

July 9th, 1912.

11 o'clock A. M.

APPEARANCES:

- 2008 JOHN F. JENNINGS, Esq., Special Examiner.
WILLIAM B. HALE, Esq.,
For Complainant.
STRONG & CADWALADER,
Attorneys for Syndicate Publishing Co.;
Lauren Carroll as Counsel.
GOULD & WILKIE,
Attorneys for Cupples & Leon Co.;
Lauren Carroll as Counsel.

C. O. Sylvester Mawson—Direct.

2009

DEPOSITION taken on behalf of complainant in rebuttal taken before Special Examiner, John F. Jennings, at the office of G. & C. Merriam Company at Springfield, Mass., at 11 o'clock A. M. on Tuesday, July 9th, 1912, pursuant to notice.

IT IS STIPULATED between counsel for the respective parties that the testimony of all witnesses produced at this examination shall be taken down stenographically by a competent stenographer appointed by the special examiner and subsequently transcribed and reduced to typewriting. It is further stipulated that the signatures of all of said witnesses shall be waived. 2010

C. O. SYLVESTER MAWSON, a witness called on behalf of Complainant, having been first duly cautioned and sworn, testified as follows:

2011

By Mr. Hale:

Q. 1. Will you please give your full name, age, residence and occupation? A. Name, Christopher Orlando Sylvester Mawson; age, 41, reside at 40 Maynard Street, Springfield, Mass., occupation, editor.

Q. 2. Are you regularly employed upon the editorial staff of G. & C. Merriam Company, complainant in this case? A. I am.

Q. 3. What experience have you had in lexicographical work? A. Somewhat extended. I have been associated with the three leading dictionaries in this country, namely the Century Dictionary, in connection with which I edited the Sanskrit and Oriental terms; the Standard Dictionary with which I was connected for some time as associate editor; Webster's New International Dictionary with which I am now serving my second term, that is to say, I rejoined their staff 2012

2013

C. O. Sylvester Mawson—Direct.

about 18 months ago. Moreover for the last three years, I have been associated with the New English Dictionary, having been appointed by Sir James Murray of Oxford, as Consulting Specialist of Oriental terms. The official title of that work is "The New English Dictionary" edited by James L. H. Murray, LL.D., Clarendon Press of Oxford. It is commonly spoken of as "The Oxford Dictionary." Perhaps the best testimony of my lexicographical skill and reliability is the fact of my being entrusted with the expert work in the present case of G. & C. Merriam Company.

2014

Q. 4. In your work in connection with the Oxford Dictionary, did you have the final say in the department that came under your supervision?

2015

A. The final say in all matters connected with the Oxford Dictionary lies with the editor in chief, Sir James Murray, but I may say I have it before he finally passes on it; I am the expert that gives final revision to all the terms entrusted to me.

Q. 5. Have you examined a dictionary involved in this case, variously known as the "Webster's New Standard Dictionary," "Webster's New Illustrated Dictionary" and "Webster's New Century Dictionary" and the "Crown Dictionary"?

A. I have, carefully, each and all of them.

2016

Q. 6. And have you compared that dictionary with various other dictionaries of the English language with a view to ascertaining its source or origin? A. I have very thoroughly.

Q. 7. Please describe briefly the examination and comparison which you made to that end? A. A careful reading of the defendant's book convinced me that—

MR. CARROLL: Objected to as not responsive.

(Witness continuing): That it was based on some English work. I may say that I conducted this

matter in quite an independent manner, that Messrs. G. & C. Merriam Company did not even tell me what they had done, but gave me the book and told me to go ahead. I, first of all, as I have explained to you, went through the book very carefully and critically, and then thinking from the nature of the book, that I might be able to come across some one work on which the editor or compiler of the said dictionary had drawn rather extensively I examined every English Dictionary, on which I could lay my hands, not only in the Springfield Library, but the New York City Library and the Boston Public Library. I am aware that similar steps were taken to discover this in England. 2018

Q. 8. What books did you examine in the course of this search? A. Before beginning to prepare my exhibit, I may say I examined every single volume of every English Dictionary on which I could lay my hand, without exception, regardless of age or time of publication. 2019

Q. 9. Did you succeed in finding any dictionary, which from a comparison, you can say was the source or original form of the dictionary here in question?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial, and as calling for a conclusion of the witness, who has not been sufficiently qualified as an expert. 2020

A. Ultimately I succeeded in finding the dictionary from which the defendant's book was unquestionably taken.

Q. 10. Have you that book here present? A. I have.

Q. 11. Will you please produce it?

Witness produces two books.

2021

C. O. Sylvester Mawson—Direct.

- Q. 12. Will you please state what you discovered in respect to these two books, relative to their identity with the defendant's dictionary herein involved? A. The first book I came across, which after a superficial examination convinced me that I had at last struck the right book, on which presumably Mr. Roe had based his work is entitled the "STUDENT'S IMPERIAL DICTIONARY of the English language to which are added selected lists of proper names with phonetic pronunciation, and abbreviations in common use, with their meanings. Edited by Rev. E. D. Price, F. G. S." The publishers' imprint is "New York, G. P. Putnam & Sons." "London, George Newnes, Limited." The above is the entire contents of the title page. This same book I discovered was published in England under the title of the BRITISH EMPIRE DICTIONARY of the English Language, to which are added selected lists of proper names with phonetic pronunciations with abbreviations in common use, with their meanings. Edited by Rev. E. D. Price, F. G. S." Publishers' Imprint is "London, George Newnes, Limited, Southampton Street, The Strand." The above is an exact copy of the title page of the "British Empire Dictionary."

2023

- Q. 13. Are you able to state that the two books produced, to wit: The Student's Imperial Dictionary and the British Empire Dictionary are identical in literary contents?

2024

MR. CARROLL: Objected to unless the witness shows how he came to such conclusions.

A. As the books will show, they are page for page, and word for word absolutely identical with the single exception that the title "THE STUDENT'S IMPERIAL DICTIONARY" has been substituted for the "BRITISH EMPIRE DICTIONARY" and in the

American edition the name G. P. Putnam & Sons is added to the publishers' imprint. I would say that the American edition bears the same printer's imprint as the English one.

Q. 14. Indicating what? A. Indicating that they were both printed by the same firm of printers, namely, Love & Wyman, Ltd., Queen Street, London, W. C. They are absolutely identical, and the books show that they have been printed from the same plates. 2026

Q. 15. Do you mean by your last reference to the printer's imprint that the printed sheets were imported into this country for use in the American edition? A. That must have been so.

Q. 16. The two books produced by the witness and identified by him are offered in evidence and are marked respectively "Complainant's Exhibit, British Empire Dictionary," and "Complainant's Exhibit, Student's Imperial Dictionary." 2027

MR. CARROLL: The introduction of these books in evidence is objected to on the ground that they are irrelevant and immaterial.

Q. 17. Who is George Newnes, the name which appears in the publisher's imprint, if you know? A. George Newnes, Limited, was founded by George Newnes. George Newnes began life as a newspaper boy, then got into the publishing business and began publishing "Tit-Bits" and afterwards "The Strand." Outside the publication of "Tit-Bits," he doesn't cut any great figure on the other side as a publisher. This I know as an Englishman. 2028

Q. 18. You are English then? A. I am.

Q. 19. Did you compare these two books, to wit, The Student-Imperial Dictionary and the British Empire Dictionary and the defendant's diction-

2029

C. O. Sylvester Mawson—Direct.

ary, to wit,—Webster's New Century Dictionary, or Webster's New Standard Dictionary?

MR. CARROLL: Objected to as irrelevant and immaterial.

A. I compared word for word from A to Z.

2030

Q. 20. Did you mark the two books produced in any way to indicate in any part the result of your comparison? If so, please explain your markings in these books. A. I did. I will explain the markings in the Complainant's Exhibit, the British Empire Dictionary. The terms marked with a blue tick indicates those that are to be found in defendant's dictionary. The terms that are not so marked are not to be found in defendant's book. Generally speaking, in the case of all these terms that are marked in blue, the term itself and the definition has been appropriated by the editor of defendant's dictionary. In certain instances the whole definition, which I may term the whole of "Price's" definition has not been taken, but certain omissions have been made. In these cases, I have enclosed in brackets the passage not appropriated by the editor of defendant's dictionary.

031

2032

Q. 21. Did you mark in any way complainant's exhibit, The Student's Imperial Dictionary, or did you make your comparison solely with the British Empire Dictionary? A. I confined my markings entirely to the British Empire Dictionary.

Q. 22. Have you here present a copy of defendant's dictionary, which you compared with the British Empire Dictionary, as stated by you? A. I have.

MR. HALE: The book produced by the witness is offered in evidence, and is marked "Complainant's Exhibit, Copy of Defendant's Book Compared with British Empire Dictionary."

C. O. Sylvester Mawson—Direct.

2033

Q. 23. The copy of defendant's book which you used is one under the title of "Webster's New Century Dictionary" was it not? A. It was.

Q. 24. You have told how you marked that copy? A. In the case of defendant's book, as the amount of matter appropriated from the English book was so considerable, I confined my markings to the dissimilarities.

MR. CARROLL: I object to the form of all witness' answers stated as they are solely on conclusions about the matter which he could obviously have no knowledge, namely,—that any matter or any definition was appropriated by Mr. Roe from the English book, or any other book. The only knowledge or information which this witness can have is that which may be derived from an examination of the books, from which examination he may state, if it be a fact that the definitions of one book are identical with the definitions of another book. It has already been shown by the testimony of Professor Peck that a great number of the words and definitions in defendant's dictionaries are taken bodily from the 1847 edition of Webster's dictionary, and it is for the court alone to determine whether or not, to use the words of the witness, Mr. Roe appropriated Webster's dictionary or appropriated Price's dictionary, also whether or not Price himself did not in the first place appropriate Webster's Dictionary.

2034

2035

2036

A. As I observed, I confined my markings to the dissimilarities. These markings are as follows: A small red cross in the margin indicates that the term is a new one so far as Price's book is concerned. In definitions where a new sense has been

2037

C. O. Sylvester Mawson—Direct.

added by the defendant's editor a red vertical mark has been made in the margin. For example, the word "freighter" in the defendant's book has the following as part of its definition, "A vessel for conveying freight." This sense is not in Price's book at all, consequently in order to be as fair as possible, I have marked it in red as explained. In certain other cases verbal changes or

2038

paraphrases have been made. These I have indicated by a blue marginal line. In certain other words, for example "Honor" in which the English form "our" has been changed to "or," I have indicated such change by underlining the "or," with blue pencil.

Q. 25. When you spoke of defendant's editor as having appropriated designated matter from the British Empire Dictionary, do you mean any more than that the matter in the two books is identical?

2039

A. I mean absolutely and literally what I say, he has appropriated that word by word.

MR. CARROLL: You cannot know it.

THE WITNESS: If you like, Mr. Carroll, and Mr. Hale has no objection, I would like you to take the English book, namely, the British Empire Dictionary, and open at any page you like and I will take the defendant's book and read it aloud to you and you can judge for yourself the extent of the appropriation.

2040

Q. 26. When you speak of matter in defendant's book as having been appropriated from the British Empire Dictionary, is the designated matter in those cases absolutely identical? A. It is absolutely identical.

Q. 27. That is what you mean by that statement?

A. That is what I mean by that statement.

Q. 28. When you speak of Price's Dictionary, what book do you mean? A. By Price's dictionary-

ary I mean both the British Empire Dictionary and the American edition of the same work, known as, the Student's Imperial Dictionary published by Putnam.

Q. 29. In complainant's Exhibit, "Copy of Defendant's book compared with the British Empire Dictionary, where no markings appear in connection with particular words and definitions, what is indicated? A. That defendant's dictionary and Price's dictionary are identical. 2042

Q. 30. Did you prepare for the purpose of exhibiting the amount of identity and the difference between defendant's dictionary and the British Empire Dictionary an exhibit which would show the matter prominently to the eye? A. I did.

Q. 31. Will you please produce that exhibit? A. I do.

Q. 32. Did you personally compare this exhibit? A. I did.

Q. 33. Will you please explain how it was prepared and what it shows? For example what is the matter that appears upon the left hand half of the page in this exhibit, headed "The British Empire Dictionary"? A. The matter on the left hand side of the page headed "The British Empire Dictionary," is a photographic copy from the book named. 2043

Q. 34. In other words the left hand half of the first page in this exhibit is a photolithographic copy of page 127 of the British Empire Dictionary? A. That is correct. 2044

Q. 35. And the left hand half of each and every succeeding page of this exhibit is likewise the photo-lithographic copy of the designated page of the British Empire dictionary which you have produced? A. That is true.

Q. 36. How did you select these pages for the purpose of photographing and comparing them? A. I purposely selected the pages which had been

2045

C. O. Sylvester Mawson—Direct.

chosen by Professor Peck for his exhibit and in addition to them I added six more pages.

2046

Q. 37. Please explain what is the matter which appears on the right hand half of each and every page of this exhibit under the heading "Webster's New Illustrated Dictionary?" A. The matter on the right hand side of the page headed "Webster's New Illustrated Dictionary," is the matter in defendant's dictionary which corresponds with the matter in the British Empire Dictionary. That is, for instance, taking the first page, which is from "Acoustics" to "acrotism" in the British Empire Dictionary. I consulted the terms in defendant's dictionary corresponding entirely or as near as possible, as will be seen from "acoustic" to "acrostic" the three words "Acrostical," "acrotic" and "acrotism" not being included in defendant's book.

2047

Q. 38. Is the matter from defendant's dictionary, upon the right hand side of the page, also a photo-lithographic copy from the dictionary itself? A. Not from the dictionary itself. It was made in this way. I cut out the pages from defendant's book to correspond with the pages of the British Empire Dictionary. These were pasted on a sheet of paper, and then photographed, so in a sense it is, although not taken from the book itself it is without any change as it is here produced.

2048

Q. 39. In other words you cut up defendant's book into columns necessary to get the pages the size of the British Empire Dictionary? A. That is so.

Q. 40. You then photographed the columns cut from the defendant's book? A. That is correct, the wider space between them will show it is not taken page for page from the book.

Q. 41. Did you photograph all the matter consecutively in the order in which it appears in de-

fendant's book on the pages which are selected?

A. Absolutely.

Q. 42. And these pages are the pages from defendant's book which Professor Peck selected and used in his exhibit, in which he compared defendant's book with Webster's Dictionary of 1847?

A. They include the whole of Peck's selection and six pages additional.

Q. 43. Please explain what the matter printed 2050
in red in this photolithographic copy indicates and what is indicated by the matter printed in black? A. The matter in red indicates the passages in the two books that are identical. The passages that are not identical, or which do not occur in defendant's book at all for example, are in black. I will explain this point by the quotation, first from the British Empire Dictionary and secondly from Webster's New Illustrated Dictionary on page 1 of this exhibit. British Empire Dictionary, "Acrostic n. A composition usually inverse, in which the first or last letters of the lines or other letters taken in order form a motto, a verse, name or word." From Webster's New Illustrated Dictionary, I now quote "acrostic n. A composition usually inverse in which the first or last letters of the lines or other letters taken in order form a motto, a verse, name or word." These definitions, as you will see, are identical and consequently are printed in red. 2051
Another illustration; from the British Empire Dictionary I quote the following:—"bosom n. the breast, clothing covering the breast; the affections or passions; something likened to a bosom, as a sustaining surface, inmost recess, etc. Adj. Pertaining to the bosom, intimate, cherished, belonging to, worn on the bosom. V. t. To place or harbor in the bosom, cherish, conceal." From Webster's New Illustrated Dictionary I quote:—"bosom n. The breast, clothing covering the 2052

2053

C. O. Sylvester Mawson—Direct.

breast; the affections or passions; something likened to a bosom, as a sustaining surface, inmost recess, etc. Adj. Pertaining to the bosom, intimate, cherished, belonging to, worn on the bosom. V. t. To place or harbor in the bosom, cherish, conceal." These also were printed in red to indicate identity.

2054

Q. 44. When matter appears printed in black in the left hand half of the page devoted to "The British Empire Dictionary" it means that matter does not appear in the defendant's book Webster's New Illustrated Dictionary. Is that correct? A. That is correct.

2055

Q. 45. When matter appears in black upon the right hand half of the page devoted to the photolithographic copy of defendant's dictionary, it means that that matter does not appear in the British Empire Dictionary, is that correct? A. That is also correct.

Q. 46. The exhibit produced and explained by the witness is now offered in evidence and the same is received and marked "Complainant's Red Letter Exhibit, Showing Identity of Defendant's Dictionary with British Empire Dictionary."

2056

MR. CARROLL: Objected to as entirely incompetent, immaterial and irrelevant, and the latter line of the testimony is objected to on the further ground that it is improper rebuttal, this subject having been in no way touched upon in the *prima facie* proofs of complainant. Evidence at this time and at this stage of the litigation offers no opportunity for rebuttal by the defendant and is therefore obviously unjust and improper.

MR. HALE: Complainant is taking rebuttal proofs; such rebuttal testimony is obviously and necessarily limited to a rebuttal of matters brought forward by the defend-

C. O. Sylvester Mawson—Direct.

2057

ant. Defendant called a witness, Professor Peck, who produced an exhibit and gave testimony purporting to show that defendant's dictionaries were based upon and taken from Webster's dictionary of 1847. This exhibit and the testimony offered and put forward by this witness will show that defendant's dictionaries were a copy almost literally from the English dictionary of Price, published in England under the title of the "British Empire Dictionary" a copy of which has been offered in evidence. The purpose of this exhibit and of the testimony of this witness is to aid and facilitate the court in making the comparison between the books produced and offered. 2058

MR. CARROLL: The testimony of this witness is apparently offered, not in rebuttal but to prove an affirmative fact which up to this point has not been alleged in complaint, namely, that defendant's book is largely taken from an English book alleged to have been edited and prepared by the Rev. E. D. Price. This affirmative proof is in no way rebuttal by the complainant to evidence offered by the defendant through the witness Peck, to the effect that the dictionaries of defendant contain so much matter which is absolutely identical with the 1847 and other earlier dictionaries as to be unquestionably based upon these Webster's dictionaries; and furthermore if it were shown that the dictionary of defendant was absolutely identical in every particular with the so-called Price dictionary, that would still be no proof that the Price dictionary itself was not absolutely and unquestionably based upon Webster's diction- 2059 2060

2061

C. O. Sylvester Mawson—Direct.

ary of 1847, so that anything identical with it would also be surely based upon the Webster's dictionary of 1847. The objection to this testimony as rebuttal is therefore renewed on the ground that it is irrelevant and immaterial and on the further ground that it is not rebuttal but affirmative proof.

2062

MR. HALE: Complainant refrains from arguing the point at this time. If counsel will be patient we will introduce all necessary evidence when we get to it. It is suggested, however, that this testimony is obviously a proof of the negative of the affirmative fact pleaded by defendant and sought by defendant to be established through the testimony of Professor Peck that defendant's book is based upon Webster's dictionary of 1847 or any other addition of Webster's dictionary.

2063

MR. CARROLL: It is hereby stipulated that all the objections made by counsel for defendant in the above exchange of statements may be considered as taken and reserved to all questions along this line.

2064

Q. 47. Did you make an actual count of the words and terms used in the British Empire Dictionary, designated by you under the name of "Price's" and the words and terms used in the defendant's dictionary, designated by you "W. N. C. D." standing for "Webster's New Century Dictionary"? A. Yes, an actual count of both were made.

Q. 48. Did you type the results of that count with a view to showing how much similarity and how much variance there was between these two books? A. I did.

C. O. Sylvester Mawson—Direct.

2065

Q. 49. Will you please read your count into the record?

(Witness reads the count into the record as follows):

ANALYSIS
OF PRICE'S DICTIONARY AND WEBSTER'S NEW
CENTURY DICTIONARY

	Number of terms in Price	Terms common to Price and W. N. C. D.	Terms in Price omitted in W. N. C. D.	New terms (not in Price) added to W. N. C. D.	Dissimilar definitions		Identical definitions in Price and W. N. C. D.
					more or less resembling Price	containing senses not covered in Price	
A	3,875	2,941	934	40	21	8	2,912
B	2,291	1,900	391	13	4	6	1,890
C	4,339	3,006	1,333	27	15	4	2,987
D	2,106	1,697	409	6	8	5	1,684
E	1,493	1,268	225	7	6	5	1,257
F	1,765	1,459	306	10	13	17	1,429
G	1,407	1,103	304	8	4	2	1,097
H	1,424	1,120	304	19	4	3	1,113
I	1,631	1,407	224	5	17	4	1,386
J	276	203	73	4	1	8	194
K	265	182	83	1	4	4	174
L	1,100	872	228	17	9	10	853
M	1,785	1,469	316	25	16	18	1,435
N	641	515	126	2	11	11	493
O	765	624	141	19	2	11	611
P	2,954	2,417	537	39	29	26	2,362
Q	216	179	37	0	0	2	177
R	1,557	1,400	157	12	17	16	1,367
S	3,665	3,185	480	35	34	36	3,115
T	1,758	1,564	194	17	42	40	1,482
U	235	199	36	2	4	3	192
V	612	543	69	4	11	6	526
W	626	576	50	6	13	17	546
X	36	31	5	2	0	4	31
Y	103	88	15	1	0	4	84
Z	213	182	31	2	2	0	180
	37,138	30,130	7,008	323	287	266	29,577

2066

2067

Q. 50. On the left side of the typewritten page from which you have read, I notice the letters of the alphabet "A, B, C, D, E," etc. What does that indicate? A. These are the letters of the alphabet corresponding with the two dictionaries in question.

Q. 51. You mean the alphabetical division? A. The alphabetical divisions of the two dictionaries in question.

Q. 52. In the first column of the above typewritten page under the heading, "Number of terms

2068

2069

C. O. Sylvester Mawson—Direct.

in Price," I observe certain figures following the letters of the alphabet, what does that mean? A. These figures refer to the entire number of dictionary terms in each letter of the alphabet.

Q. 53. You mean the number of terms in each alphabetical division of Price's dictionary? A. That is all the head words in bold face type.

2070 Q. 54. How many terms by actual count did you thus discover in the British Empire Dictionary, termed "Price's Dictionary"? A. From A to Z inclusive, the total number of terms in Price's dictionary is 37,138.

Q. 55. How many terms did you find common to Price's dictionary and defendant's dictionary by actual count? A. 30,130.

2071 Q. 56. How many terms did you find by actual count are contained in Price's dictionary, that is to say the British Empire Dictionary, which terms are omitted and do not appear in defendant's dictionary? A. I found a total of 6,008 terms in Price's dictionary which do not appear at all in defendant's dictionary.

Q. 57. How many terms did you find in defendant's Webster's New Century Dictionary, by actual count, which are not contained in the British Empire Dictionary? A. 323.

2072 Q. 58. How many dissimilar definitions did you find in defendant's Webster's New Century Dictionary which more or less resemble the definitions in the British Empire Dictionary? A. 287.

Q. 59. How many definitions did you find in defendant's Webster's New Century Dictionary, more or less dissimilar from corresponding definitions in the British Empire Dictionary and containing senses not covered in the latter dictionary? A. 266.

Q. 60. Out of the 30,138 identical terms which are common to both defendant's Webster Century Dictionary and the British Empire Dictionary, did

C. O. Sylvester Mawson—Direct.

2073

you find the definitions contained in Defendant's Webster's New Century Dictionary to be identical and literally word for word thesame? A. Yes, to the total number of 29,577.

Q. 61. Did you prepare a summary statement of these figures? A. I did.

Q. 62. Will you please read the same into the record. A. I will and it is as follows:

SUMMARY.

2074

TERMS.

Number of terms in W. N. C.	
D. taken from Price.....	30,130
Number of Price's terms	
omitted in W. N. C. D....	7,008
<hr/>	
Total number of terms in	
Price	37,138
Number of terms common to	
both Price and W. N. C. D.	30,130
New terms added to W. N.	
C. D.	323
<hr/>	
Total number of terms in	
W. N. C. D.....	30,453

Percentage of terms taken
from Price 98.94

Percentage of new terms
added to W. N. C. D..... 1.06

2075

DEFINITIONS.

Number of definitions taken	
bodily from Price.....	29,577
Number more or less resemb-	
ling Price (some having	
only a single word	
changed)	287
Number containing new	
matter	266
Number of new terms de-	
fined	323
<hr/>	
	30,453

Percentage of definitions taken
from Price 98.06
viz., identical defs..... 97.12
more or less resemb-
ling94

98.06

2076

Percentage of new matter
added to W. N. C. D... 1.94

2077

C. O. Sylvester Mawson—Direct.

Q. 63. From actual count please state in percentages the number of terms contained in defendant's Webster's New Century Dictionary which are identically the same as the terms contained in the British Empire Dictionary? A. 98.94%.

Q. 64. And what percent of new terms were there in defendant's book? A. 1.06 per cent.

2078

Q. 65. What percentage of definitions in defendant's book did you find were identical with the definitions in the British Empire Dictionary? A. 98.06 percent.

Q. 66. What percentage of new definition matter did you find in defendant's book which was not contained in the British Empire Dictionary? A. 1.95 per cent.

2079

Q. 67. Did you personally make this count and calculate these percentages, as shown by the summary which you have read into the record? A. I did.

Q. 68. And you know them to be correct? A. I know them to be correct.

Q. 69. This count embraces the entire book? A. That is so.

2080

Q. 70. And it was not limited simply to the complainant's red letter exhibit which covered the precise amount covered by Dr. Peck's exhibit plus six additional pages? A. The count is not in any sense of the word an estimate, it is an actual count made direct from the book itself.

MR. CARROLL: I object to the count as immaterial and irrelevant and as not the best evidence, the books speaking for themselves.

Adjourned till afternoon.

C. O. Sylvester Mawson—Direct.

2081

TWO O'CLOCK, P. M.

IT IS HEREBY STIPULATED, that depositions *de bene esse* on behalf of complainant in rebuttal for final hearing, may be taken at Chicago on the twelfth day of July at 11.30 A. M. of that day at the office of Messrs. Reilly & Britton Company. The witnesses to be examined are J. F. Murphy and C. W. Taber, F. K. Reilly and S. C. Britton. It is further stipulated that said depositions may be taken before any Notary Public or any officer duly qualified to administer oaths and take depositions under the revised statutes of the United States. 2082

(TESTIMONY RESUMED.)

By Mr. Hale:

Q. 71. Did you also count the words in Dr. Peck's exhibit and make a comparison of the words in Price's book embraced in Peck's exhibit in corresponding portions? A. Yes, I did. 2083

Q. 72. How many words did you find in Dr. Peck's exhibit, that is in the portion of defendant's dictionary in which he made comparison with Webster of 1847. A. 6,973.

Q. 73. How many of these identical words did you find embraced in the corresponding portion of the British Empire Dictionary? A. 6,834.

Q. 74. How many words were supplied by the editor of defendant's dictionary which were not in the British Empire? A. 139. 2084

Q. 75. Are those 139 clearly new and original matter? A. They are not.

Q. 76. What is the fact? A. 72 of them are mere revisions of Price's matter.

Q. 77. How many are new matter? A. 67 are new, absolutely new.

Q. 78. Did you make a calculation and ascertain the per cent. of the material included in Dr. Peck's

2085

C. O. Sylvester Mawson—Direct.

exhibit which is absolutely identical with matter in the British Empire Dictionary? A. I did.

Q. 79. What per cent. of identical matter did you find? A. Over 99% of the matter presented by Dr. Peck has been bodily taken from Price's dictionary.

Q. 80. What was there, if anything, identifying the British Empire Dictionary as the source of
2086 defendant's dictionary?

MR. CARROLL: Objected to as calling for conclusion of the witness.

Q. 81. I will add to my question, I want you to point out the things in the books themselves. A. The introduction of common errors.

Q. 82. Anything else? A. The existence in defendant's books of so many errors which are to be found in Price's book.

2087 Q. 83. Can you give me a list of such instances?
A. A few that occur to me, are "prevalence" characterized as an adjective instead of a noun, both in Price's and defendant's dictionary. "Steere" is misprinted in Price's book for "steeve" as is also "steering" for "steaving." These errors have been copied into defendant's dictionary. The same curious error in cross references occurs in Price's as in defendant's book, namely "engulf same as ingulf." "Ingulf, same as engulf." In
2088 addition to these errors I was also struck with the way that the editor of defendant's book copied the same illustrations as Price. For instance: "aliquant, as 8 is an aliquant part of 25"; "aliquot, as 8 is an aliquot part of 24"; "alliteration, apt alliteration's artful aid."

"Brace,	Tit-}
thus:	} Bits}

The humor of this lies in the fact that "Tit-

Bits" is the well known publication of George Newnes, the original publisher of the dictionary.

"Cube as $5 \times 5 \times 5 = 125$, cube of 5."

"Cube root, as 5 of 125."

"Cubo-cube, as $729 = 3^6$ "

"Ham, as Tottenham."

In addition to these, Price's peculiarities of typography have been copied very closely in defendant's book. For example in both books each definition begins with a small letter instead of the more usual capital. There is also the same want of uniformity in printing the name of a genus, etc. Some times it is put in italics and at others in Roman. For example "darnel lolium temolentum" is in italics in both books, in "deer" "cervus" is in Roman; in "dog" "canus" is in Roman, in "fly," "musca domestica" is in italics; "nettle," "urtica" is in Roman; in "tiger," 2090
"felis" is in Roman. 2091

Another remarkable point in both books is the phrases are marked as nouns, For example,

Adam's Ale, n.

Gelatine process n.

Improper fraction n.

Magic lantern n.

Nitric acid n.

Inclined plane n.

Zymotic disease n.

2092

Close corporation n.

Fore-fathers' Day n.

Forensic medicine n.

Haversain Canals n.

Magna Charta n.

Passion Sunday n.

United Brethren n.

Q. 84. Is that a correct thing to do? A. It is not.

2093

C. O. Sylvester Mawson—Direct.

Q. 85. In other standard dictionaries of recognized authority, such as the Century Dictionary or the Standard Dictionary, is that practice followed? A. It is not.

Q. 86. Did Webster's dictionary of 1847 or any other edition, follow that practice? A. It did not.

2094

Q. 87. To the extent that defendant's books follow that practice they do not follow Webster, is that correct? A. They do not follow Webster nor any other dictionary to my knowledge.

Q. 88. In comparing this British Empire Dictionary with defendant's dictionary did you find any instances where the English form of spelling terms as shown in the British Empire Dictionary had been changed in the defendant's book and the American form adopted? A. I did note such.

2095

Q. 89. Did you count them? A. Yes, I did. I found by actual count that changes have been made in 189 of such terms, while in 75 others the change from the English to the accepted American form has not been made.

Q. 90. Can you produce a list of these words to which you have referred and the count of which you have given? A. I can.

Q. 91. Please do so.

The list produced and read by the witness is as follows:

ORTHOGRAPHY

2096

The spelling adopted by Webster's New Illustrated Dictionary compared with that of Webster's Unabridged (1847)

Only such Websterian forms have been inserted in this Table as are approved by Webster's New International Dictionary and other American authorities.

[The forms marked by a dagger do not occur at all in Webster of 1847]

Syndicate book	British dictionaries	Webster's preferred form	
abetter†	abetter [O. CH.]	abettor	
accoutre	accoutre [C. O. CH.]	accouter	
accoutrements	accoutrements [C. O. CH.]	accouterments	2098
adze†	adze [C. O. CH.]	adz	
aide-de-camp†	aide-de-camp [C. O. CH.]	aid-de-camp	
appal†	appal [C. CH. O.]	appall	
axe†	axe [C. CH. O.]	ax	
banian	banian [CH.]	banyan	2099
boulder	boulder [C. CH. O.]	bowlder	
brazier	brazier [C. CH.]	brasier	
cauldron	cauldron [CH.]	caldron	
carburetted†	carburetted [C. CH. O.]	carbureted	
cornelian	cornelian [C.]	carnelian	2100
chartographer†	chartographer [C.]	cartographer	
chartography†	chartography [C. O.]	cartography	
cheque	cheque [C. CH.]	check	

[C. = Cassell's.

CH. = Chamber's.

O. = Ogilvie's.]

2101

C. O. Sylvester Mawson—Direct.

	Syndicate book	British dictionaries	Webster's preferred form
	cotillion	cotillion [CH.]	cotillon
	coulter	coulter [C. O.]	colter
	councillor†	councillor [C. CH. O.]	councilor
2102	cyclopædia	cyclopædia [C. CH. O.]	cyclopedia
	deflower†	deflower [C. CH.]	deflour
	detector†	detector [O.]	detecter
	diarrhœa	diarrhœa [C. CH. O.]	diarrhea
	despatch	despatch [C. CH. O.]	dispatch
2103	distil†	distil [C. CH. O.]	distill
	dolour†	dolour [C. CH.]	dolor
	dulness†	dulness [C. O.]	dullness
	encyclopædia	encyclopædia [C. CH. O.]	encyclopedia
	faecal	faecal [C. CH. O.]	fecal
2104	fœtal	fœtal [CH.]	fetal
	fœtus	fœtus [CH.]	fetus
	gavotte†	gavotte [C. CH. O.]	gavot
	gaiety	gaiety [C. CH. O.]	gayety

[C. = Cassell's. CH. = Chamber's. O. = Ogilvie's.]

Syndicate book	British dictionaries	Webster's preferred form	
<i>gaily</i>	<i>gaily</i> [C. CH. O.]	<i>gayly</i>	
<i>gelatinet</i> †	<i>gelatine</i> [C. CH. O.]	<i>gelatin</i>	
<i>glycerinet</i> †	<i>glycerine</i> [CH. O.]	<i>glycerin</i>	
<i>gramme</i>	<i>gramme</i> [C. O.]	<i>gram</i>	2106
<i>guerilla</i> †	<i>guerilla</i> [C. CH.]	<i>guerrilla</i>	
<i>embitter</i> †	<i>embitter</i> [C. CH. O.]	<i>imbitter</i>	
<i>embosom</i> †	<i>embosom</i> [C. CH. O.]	<i>imbosom</i>	
<i>encase</i>	<i>encase</i> [CH.]	<i>incase</i>	
<i>ensnare</i> *	<i>ensnare</i> [CH.]	<i>insnare</i>	2107
<i>instilt</i>	<i>instil</i> [C. CH. O.]	<i>instill</i>	
<i>enthrall</i>	<i>enthrall</i> [C. CH.]	<i>inthrall</i>	
<i>enwrap</i>	<i>enwrap</i> [C. CH.]	<i>inwrap</i>	
<i>joust</i>	<i>joust</i> [C. O.]	<i>just</i>	
<i>kilogramme</i>	<i>kilogramme</i> [C. CH.]	<i>kilogram</i>	2108
<i>ledger-line</i>	<i>ledger-line</i> [O.]	<i>leger-line</i>	
<i>maugre</i>	<i>maugre</i> [C. CH. O.]	<i>mauger</i>	
<i>mullein</i>	<i>mullein</i> [C.]	<i>mullen</i>	

[C. = Cassell's. CH. = Chamber's. O. = Ogilvie's.]

	Syndicate book	British dictionaries	Webster's preferred form
	ochre	ochre [C. CH. O.]	ocher
	oyes	oyes [C. O.]	oyez
	pædobaptism†	pædobaptism [C. O.]	pedobaptism
2110	phosphuretted†	phosphuretted [C. CH. O.]	phosphureted
	purr	purr [C. CH. O.]	pur
	reinforce	reinforce [C. CH.]	reenforce
	reinforcement	reinforcement [C. CH.]	reenforcement
	reynard	reynard [C. CH.]	renard
2111	rencontret†		rencounter
	rouble	rouble [C. O.]	ruble
	sarsenet†	sarsenet [CH.]	sarcenet
	savannah†	savannah [C.]	savanna
	scathet†	scathe [C.]	scath
2112	sillibub†	sillibub [CH.]	sillabub
	sylvan	sylvan [CH.]	silvan
	syrup	syrup [C. CH. O.]	sirup
	skilful†	skilful [C. CH. O.]	skillful

[C. = Cassell's.

CH. = Chamber's.

O. = Ogilvie's.]

Syndicate book	British dictionaries	Webster's preferred form	
subpoena	subpoena [C. CH. O.]	subpena	
sulphuretted†	sulphuretted [C. CH. O.]	sulphureted	
tailage	tailage [CH.]	tallage	
titbit	titbit [CH.]	tidbit	2114
wilful†	wilful [C. CH. O.]	willful	
woful	woful [C.]	woeful	
wofully	wofully [C.]	woefully	
zaffre†	zaffre [C. CH. O.]	zaffer	

[C. = Cassell's.

CH. = Chamber's.

O. = Ogilvie's.]

2115

CROSS REFERENCES

that follow the plan of British dictionaries, as opposed to that of
Noah Webster and present-day American dictionaries

Syndicate Book	British dictionaries	Webster's preferred form	
BANYAN. See banian.	BANYAN. See banian. [CH.]	BANYAN.	
CALDRON. See cauldron.	CALDRON. See cauldron. [CH.]	CALDRON.	
CARTOGRAPHER, -IC, -Y. See CHARTOGRAPHER, etc.	CHARTOGRAPHER, -IC, -Y. See CHARTOGRAPHER, etc. [C. O.]	CARTOGRAPHER, etc.	2116
DISPATCH. Same as despatch.	DISPATCH. Same as despatch. [CH. C. O.]	DISPATCH	
FECAL. Same as faecal.	FECAL. Same as faecal. [CH. C. O.]	FECAL.	
FETAL. Same as foetal.	FETAL. Same as foetal. [CH.]	FETAL.	
FETUS. See foetus.	FETUS. See foetus. [CH.]	FETUS.	
GRAM. See gramme.	GRAM. See gramme. [C. O.]	GRAM.	
INCASE. Same as encase.	INCASE. Same as encase. [CH. C.]	INCASE.	
PEDOBAPTISM. Same as paedobap- tism.	PEDOBAPTISM. Same as paedobap- tism. [C. O.]	PEDOBAPTISM	
RENARD. Another form of reynard.	RENARD. See reynard. [CH. C.]	RENARD.	

[C.—Cassell's. CH.—Chamber's. O.—Ogilvie's.]

2117

C. O. Sylvester Mawson—Direct.

- Q. 92. Will you please explain the list which you
 —have produced and give the meanings of the mark-
 ings and abbreviations? A. The list is arranged
 in three columns; column 1 consisting of terms
 spelled as in the Syndicate Book; column 2 con-
 sists of the same terms as spelled in English dic-
 tionaries, it being marked in which dictionary
 each instance occurs, the "C" standing for Cas-
 2118 sell's, "Ch" for Chamber's and "O" for Ogilvie's
 Imperial Dictionary, (English form). The third
 column shows the same words as they appear in
 Webster's, by Webster's I mean in the Webster
 1847 edition and all later issues and which form
 is still retained today in our latest edition, name-
 ly, the New International, and which may be
 recognized as the accepted American form.

2119

MR. CARROLL: I object to the last part of
 the statement and move that it be stricken
 out.

WITNESS: The terms marked by a dagger
 do not occur at all in Webster's Unabridged
 Dictionary of 1847, but they are included in
 this list, as showing that they follow the
 British form of orthography, differing from
 the American form.

2120

Q. 93. Please explain the cross references which
 you have noted at the end of the above list. A.
 These cross references are also arranged on the
 same plan as in the preceding list. A cross re-
 ference is invariably made to the form preferred
 by any dictionary in question and in this list I
 show that in its cross references the Syndicate
 Book refers from the accepted American form,
 and certainly the form approved and used by
 Noah Webster, and refers to the English form of
 the word under which form it gives its definition.

Q. 94. Did you personally prepare this list of
 words? A. I did.

C. O. Sylvester Mawson—Direct.

2121

Q. 95. And it truly shows the fact? A. It does.

Q. 96. Of your own knowledge? A. Of my own knowledge.

Q. 97. Did you discover these peculiarities in your examination of defendant's book before you had located the source of defendant's book in Price's British Empire Dictionary? A. I did.

Q. 98. Did they have anything to do with the opinion which you have expressed that defendant's dictionary was based upon an English dictionary? A. They confirmed me in my opinion that the book was undoubtedly from an English source. 2122

Q. 99. Were they the cause of the search you made among English publications? A. Together with other causes they were. As a further illustration of defendant's departure from Webster's preferred form of spelling I call attention to the word "reinforce." In Webster's of 1847 this word is spelled "reenforce" and Webster makes this comment, "it is written also reinforce, but not so correctly." "Reinforce" is the accepted British form. 2123

Q. 100. Did you discover any other indications which to your mind pointed to an English source of the literary matter contained in defendant's dictionary? A. I did. I noticed that in defendant's book some of the words which in English end in "re" are spelled "er" but in making some of these changes from the English to the American form the editor omitted to change the alphabetical position of the word as changed. For example, "luster," "odor" and sepulcher" have obviously been changed from the English form in "re" with the result that they appear out of alphabetical order. When changed in defendant's book "luster" comes immediately after "lustration"; "odor" in defendant's book comes 2124

2125

C. O. Sylvester Mawson—Direct.

between "odorous" and "o'er" and "sepulcher" comes after "sepulchral." The change to the American form has clearly thrown them out of alphabetical order.

2126

Q. 101. Do they appear in the same order, notwithstanding the change of spelling as they do in Price's British Empire Dictionary? A. They are in exactly the same order without that change of spelling in Price's book.

Q. 102. They appear in exactly the same order as in Price's Dictionary? A. They do.

Q. 103. Did you discover any other instances of that sort? A. I noticed other instances of orthographical changes without making a corresponding changes in the alphabetical place.

2127

Q. 104. Please give them or some of them. A. The words in "ize" in which the British form spells them in "ise" and the American form in "ize", changes have been made without the corresponding changes in the vocabulary position on the instances following, "liberalize, materialize, methodize, moralize, analyze, symbolize."

Q. 105. Do all of those words appear in the same position in defendant's dictionary as they do in Price's British Empire Dictionary? A. They do.

2128

Q. 106. And due to the changes from the English form of spelling to the American form of spelling they therefore appear out of alphabetical order in the defendant's dictionary, is that true?

A. That is true.

Q. 107. What would have been the fact in that regard if the editor of defendant's book had been working from Webster's Dictionary 1847 edition or any other edition of Webster's Dictionary? A. They would have been in correct alphabetical order.

Q. 108. Did you discover any other facts from the contents of defendant's book pointing to its origin in Price's British Empire Dictionary? A. Yes.

C. O. Sylvester Mawson—Direct.

2129

Q. 109. Please state it. A. I noted a number of what I shall call mixed definitions, that is, the definition in the defendant's book is made up of two wholly different definition's in Price's book.

Q. 110. Have you a list of such instances? A. I have prepared some such instances I came across.

Q. 111. Will you please read the same into the record. A. I do so as follows:

2130

MIXED DEFINITIONS.

Webster's New Century Dictionary

boots (), *n.* the servant in a short boot, for women; a child's knitted boot.

citadel (), *n.* a fortress; a being cited.

congenial (), *adj.* kindred; from a liquid to a solid state by cold; *v.i.* to concrete by cold.

corn (), *n.* a horny excrescence as with salt in grains.

ophthalmoscopy (), *n.* exsection or extraction of the eye.

rhyme (), *n.* the correspondence measure or time in poetry or prose; meter; verse.

British Empire Dictionary

boots (), *n.* the servant in an hotel who cleans the boots of the guests.

bootee (), *n.* a half-boot, or short boot, for women; a child's knitted boot.

citadel () *n.* a fortress, a castle.

citable (), *adj.* capable of being cited.

congenial (), *adj.* kindred; pleasant and sympathetic; cognate.

congeal (), *v.t.* to change from a liquid to a solid state by cold; *v.i.* to concrete by cold.

corn (), *n.* a horny excrescence on the toe, or foot.

corn (), *v.t.* to preserve or cure, as with salt in grains.

ophthalmoscopy (), *n.* examination of the eye.

ophthalmotomy (), *n.* dissection or extraction of the eye.

rhyme (), *n.* the correspondence of the sound of the last word or syllable of one verse or line to the sound of the last word or syllable of another. * * *

rhythm (), *n.* agreement of measure or time in poetry or prose; metre; verse.

2131

2132

2133

C. O. Sylvester Mawson—Direct.

Q. 112. In each case in the above list the two definitions which have been mixed have occurred in the British Empire Dictionary in close proximity, is that correct? A. The list clearly shows that.

Q. 113. And the mixing of them has resulted in manifest absurdity in the definitions in defendant's dictionary? A. The mixing makes the defendant's dictionary absolutely meaningless.

2134

Q. 114. Do any of these cases occur in Webster's dictionary of 1847 or in any other edition? A. They do not.

2135

Q. 115. Dr. Peck in his testimony on behalf of defendant expressed the opinion that a 10% variation from Webster's form of spelling would not, in his opinion, indicate non-conformity to Webster's Dictionary and Websters's principles. Where there is a difference between Webster's form of spelling, that is to say, the American form and the English form of spelling, what is the percent in which the defendant's editor has followed the Webster or American form, and what percent has he failed to follow it? A. He has followed the American form of spelling in 60% of the terms and failed to follow it, or in other words has retained the British form in 40%.

2136

Q. 116. Did you find any palpable errors in defendant's dictionary which were not also contained in Price's British Empire Dictionary? A. I did.

Q. 117. Will you please point out some of them? A. I noted the following: "Flabbily," definition is printed twice. "Litchi," definition is incomplete. It reads:—"A tree producing a." Price has "a tree producing a fruit (Lichi) much esteemed in China." "microbe, *adj.*," for "microbic," "micromillimeter," "1,000,000,000th. of a meter," three ciphers too many, "pharmaceuist"

for pharmacist, "strabatomy" for strabotomy, "tickling" for "ticking," "transmutation" for transmigration, "valenciennes" for valediction. "verify" under this word "fulfil" is spelled as in Price's, whereas in the defendant's dictionary (in the vocabulary) it has been changed to "fulfill" which is the American form," "vituperation" for vituperative.

Q. 118. What, if anything, can you say as to the British character of the definitions in defendant's book? A. The English applications of many of the definitions is a very noticeable feature of defendant's book, and this, as I have explained before, is one of the reasons which led me first of all to believe that the defendant's dictionary was derived from an English source. I have prepared a list of some of the words which I have come across. This list does not affect to be exhaustive but will illustrate my point. It is as follows:—

2138

COMPARE THE FOLLOWING DEFINITIONS.

Noting Their British Character and Style of Capitalization.

Webster's New Illustrated Dictionary
acre, n. a superficial measure of land containing, in Great Britain, the United States and the Colonies, 4,840 sq. yds.

Webster's Unabridged (1847)

acre, n. A quantity of land, containing 160 square rods or perches, or 4,840 square yards. This is the English statute acre. The acre of Scotland contains 6,130 2-5 square yards. The French *arpent* differs not greatly from the English standard acre. The Roman *jugerum* was 3,200 square yards.

2140

advowson, n. the right of presentation to a benefice.

advowson, n. In *English* law, a right of presentation to a vacant benefice; or, in other words, a right of nominating a person to officiate in a vacant church.

antiphon, n. a chant or hymn rendered alternately by two choirs, as in English cathedral services.

antiphon, n. The chant or alternate singing in choirs of cathedrals.

2141

C. O. Sylvester Mawson—Direct.

Webster's New Illustrated Dictionary
billiards, n. a game played on a rectangular, cloth-covered slate table, 12 ft. x 6 ft. in size, with ivory balls and a cue.

[In the American or French game the standard table is 10 x 5. The standard English table is 12 x 6.]

2142

chalice, n. a cup; a Eucharist cup.

chapel, n. a subordinate place of public worship; a place of worship in a palace, institution, &c.; a nonconformist place of worship; an association of journeymen in a printing house.

2143

chemist, n. one skilled in chemistry; a dealer in drugs and medicines; an analyst.

christen, v. t. to baptize in the name of the Holy Trinity; give a Christian name to.

2144

Churchman, n. an adherent of the Established Church; an Episcopalian.

Webster's Unabridged Dictionary (1847)

billiards, n. A game played on a rectangular table, covered with a green cloth, with small ivory balls, which the players aim to drive into hazard-nets or pockets at the sides and corners of the tables, by impelling one ball against another, with maces, or cues, according to certain rules of the game.

Chalice, n. A cup or bowl; usually, a communion-cup.

chapel, n. A house for public worship, erected separate from a church; primarily, a private oratory, or house of worship belonging to a private person. 2. In England, a place of worship for dissenters. 3. A printer's work-house; said to be so called because printing was first carried on in a chapel. Also, an association of workmen in a printing-office.

chemist, n. A person versed in chemistry; a professor of chemistry.

christen, v. t. 1. To baptize, or rather to baptize and name; to initiate into the visible church of Christ by the application of water; *applied to persons*. And as a name is given to the persons in the ceremony, hence, 2. To name; to denominate; *applied to things*. *Prædict.*

churchman, n. An ecclesiastic or clergyman; one who ministers in sacred things. 2. An Episcopalian, as distinguished from a Presbyterian or Congregationalist, &c.

Webster's New Illustrated Dictionary
churchwarden, n. in the Anglican Church, one of two officers chosen at Easter in every parish to attend to the secular affairs of the church, and to act as the legal representatives of the parish; a long clay pipe.

Webster's Unabridged Dictionary (1847)
church-warden, n. A keeper or guardian of the church, and a representative of the parish. Churchwardens are appointed by the minister, or elected by the parishioners, to superintend the church, its property and concerns, and the behavior of the parishioners. For these and many other purposes, they possess corporate powers.

Johnson. Encyc.

2146

deacon, n. the lowest order of the clergy in the Anglican Church; in non-episcopal churches, a layman appointed to assist the minister and manage the temporal affairs of a church.

deacon, n. 1. A person in the lowest degree of holy orders. In the *church of England*, the office of deacons is declared to be to assist the priest in administering the holy communion, and their office in Presbyterian and Independent churches is to distribute the bread and wine to the communicants. In the latter, they are elected by the members of the church.

guard, n. an official in charge of a train.

[Not in Webster (1847). The term is not used in this sense in the United States and should have been characterized as British. Here we say "railroad conductor."] 2147

nepotism [erroneously spelled NEOP-TISM], n. a preference shown in bestowing patronage to one's relatives in the church or public service.

nepotism, n. 1. Fondness for nephews. *Addison*.

2. Undue attachment to relations; favoritism shown to nephews and other relations.

shinty, n. hockey; the club used in playing it [Scotch].

[Not in Webster. Cf. Cassell's: "Hockey; the club used in hockey." The term is Scotch and is not used in the United States.] 2148

side, n. bias of a billiard ball.

[Not in Webster. The term in this sense is British. In the United States it is called *English*. The Syndicate book does not include this meaning in defining ENGLISH, n. As a kind of afterthought however, it gives the verb "to English."]]

2149

C. O. Sylvester Mawson—Direct.

Webster's New Illustrated Dictionary
 stole, n. a stola; a long, narrow scarf
 fringed at the ends, worn by bishops,
 priests, and deacons of the Roman
 Catholic Anglican Churches.

surplice, n. the outer linen vestment with
 wide sleeves, worn by the officiating
 clergy and choristers of the Roman
 Catholic and Anglican Churches.

2150

verger, n. an official who has care of
 the interior of an English cathedral.

Yiddish, n. a kind of composite language
 spoken by foreign Jews in England.

Webster's Unabridged Dictionary (1847)
 stole, n. In the *Roman Catholic church*,
 a long and narrow scarf with fringed
 extremities, worn by a priest around
 the neck, and crossed over the breast
 in front. *Hook.*

surplice, n. A white garment worn
 over their other dress by the clergy
 of the Roman Catholic, Episcopal, and
 certain other churches, in some of their
 ministrations.

verger, n. He that carries the mace be-
 fore the bishop, dean, &c. A pew-
 opener or attendant at a church.

[Not in Webster (1847). Cf. Chamb-
 er's: "a strange compound of very
 corrupt Hebrew and ancient or
 provincial German spoken by the com-
 moner Jews—extensively in the East
 End of London."]

2151

On the left hand side, the definition is given as
 it appears in Webster's New Illustrated Diction-
 ary, while in the right hand column the same defi-
 nition is given, as it appears in Webster's Un-
 abridged 1847. Certain comments of my own are
 contained within the brackets. There are other
 instances which will be found in another exhibit,
 such for instance, the word "adder" which is de-
 fined in defendant's book as "the popular name
 for the viper." As the viper is found in England
 and not in the United States, it follows that the
 word "popular" refers to British usage. In
 America "adder" is the popular name of various
 non-poisonous snakes.

2152

Q. 119. Did you discover in defendant's book in-
 stances of cross references to vocabulary heads
 which do not appear anywhere in defendant's
 book? A. I did.

Q. 120. Can you give a list of those or illustra-
 tions of that? A. I can name some of them.

C. O. Sylvester Mawson—Direct.

2153

Q. 121. Please do so. A. "Aegis, barbary, chamois, encase, ingulf, engulf, intrench, intrust." These terms do not appear in the vocabulary at all, although referred to elsewhere in defendant's book.

MR. CARROLL: I object to this answer as irrelevant and immaterial on the ground that the book itself is the best evidence, and on the further ground that the testimony is not borne out by the book itself. 2154

Q. 122. I observe that you have mentioned the words "engulf" and "ingulf" each of which appear in the vocabulary. Why did you include that in your list? A. For the simple reason that it is a case of double cross reference, the word not being defined under either form.

Q. 123. Will you please point out how the cross references were made in the words which you have mentioned? A. Under "egis" the dictionary says "see aegis," the form "aegis" does not appear, "shammy" appears in the dictionary as a name defined by the one word "chamois," the word chamois does not appear in the book. "Incase" is defined "same as encase," the latter word does not appear. In the dictionary "engulf" is defined "the same as ingulf" and "ingulf," "the same as engulf"; in the dictionary "entrench" is defined "same as intrench" the word "intrench" does not appear; in the dictionary "entrust" is defined "same as intrust" the latter form does not appear. Barbary I cannot at the moment recall. 2155

Q. 124. Does it occur in defendant's dictionary that certain words are referred to in the definitions which words do not appear defined anywhere in the vocabulary? A. I have noted several such. 2156

Q. 125. Can you produce some illustrations covering them? A. Here is a list of some of them.

2157

C. O. Sylvester Mawson—Direct.

WORDS REFERRED TO IN DEFINITIONS BUT NOT INCLUDED IN THE VOCABULARY.

	<i>Omitted Words</i>	<i>Referred to under</i>
	actinolite	strahlite
	aftergrass	fog
	agave	pulque
	birch-oil	Russia leather
2158	couch-grass	twitch-grass
	cryptogamic	lichen
	grass-cloth	ramie
	honey-bird	wattlebird
	horsemanship	equestrian
	lycopodium	club-moss
	nightshade	mandrake
	outfit	trousseau
	photomechanical	Woodbury type
	prepuce	foreskin
	roundness	rotundity
2159	semicircular	roundel
	skysail	moonsail
	solan	gannet
	sphygmometer	pulsimeter
	subdivision	species
	sweating-bath	sudatorium
	unipersonal	Unitarian
	watch-house	roundhouse
	wood-tar	pitacal
	zygote	gamete

2160

Q. 126. Did you compare the literary matter in the defendant's dictionary and that in complainant's exhibit, The Student's Imperial Dictionary and complainant's exhibit, The British Empire Dictionary, with a view to ascertaining, if possible, the source or origin of it? A. I did.

Q. 127. Please describe what you did and the conclusion to which you came?

MR. CARROLL: To so much of the answer

C. O. Sylvester Mawson—Direct.

2161

and the question which calls for a conclusion, I object on the ground he has not qualified as an expert, and the rest of the question I object to as irrelevant and immaterial.

A. After making a comparison of the defendant's dictionary with numerous English dictionaries, I came to the conclusion that the defendant's dictionary or rather the Price's dictionary on which it is based, is an independent production derived from various British sources, certainly not derived in any sense of the word from Webster's. 2162

Q. 128. Did you examine the exhibit prepared by Dr. Peck and offered in evidence by the defendant for the purpose of showing identities and similarities between defendant's dictionary and Webster's dictionary of 1847? A. I did.

Q. 129. Did you personally compare the same pages as Dr. Peck compared in his exhibit for the purpose of showing the true fact in that regard? A. I made such a comparison. 2163

Q. 130. Did you embody the result of that comparison in an exhibit? A. I have done so.

Q. 131. Will you please produce the same? A. Witness produces an exhibit consisting of 32 sheets consecutively numbered and initialed by witness.

Q. 132. Will you please explain how this exhibit is made up and what the various parts of it are? A. I would like to explain at this point that I prepared this exhibit before I was aware of the existence of Price's dictionary. 2164

Q. 135. When did you first become aware of the existence of the British Empire Dictionary? A. I first became aware of the American edition, namely, The Student's Imperial Dictionary, on or about the 27th of April, 1912. On finding this book bearing the name of George Newnes, Ltd., as

2165

C. O. Sylvester Mawson—Direct.

the English publisher, we made effort to procure additional copies in London and in this way became aware that the book had been originally published in England under the titles of the British Empire Dictionary, a copy of this book we received about five or six weeks ago.

2166

Q. 136. What was the period of time covered by your comparison and investigations to which you have already testified, approximately? A. Since about the beginning of April, 1912.

2167

Q. 137. Will you now proceed to explain the last exhibit which you have produced. A. This exhibit is a comparison between defendant's dictionary, Webster's unabridged dictionary of 1847, Chambers' 20 Century Dictionary, and Cassell's English Dictionary. On pages 1 to 18 both inclusive, the printed matter appearing in the column headed "Webster's New Illustrated Dictionary," consists of matter cut from said dictionary of defendant and pasted in the exhibit. The matter appearing in the second column under the heading, "Webster's unabridged dictionary of 1847," consist of pages cut from that dictionary. The matter appearing in the next column headed, "Chamber's 20th Century Dictionary," consists of matter cut from a copy of that dictionary; and the matter appearing in the next column, under the heading, "Cassell's English Dictionary," consists of matter cut from that dictionary and pasted into the exhibit. The matter upon a yellow slip in the last column headed, "Remarks" contains matter of my own, except in so far as it is quoted, from designated books, in which case it consists of matter which I myself accurately copied from the books designated.

2168

At the top of each page of this exhibit I have inserted an explanation of what the markings in the exhibit indicate. This exhibit was prepared

and marked by me personally and I know it to be correct.

I will now explain the markings on pages 1 to 18, both numbers inclusive. The words underscored in red in Webster's unabridged dictionary, Chamber's and Cassell's dictionaries, are words that are identical with the words and corresponding definitions in defendant's book. New terms added to defendant's book and not in Webster's are indicated in the margin with a violet vertical line. In marking this exhibit I have made it a rule to avoid paraphrases entirely, so that the words underscored are absolutely identical with the words appearing in defendant's dictionary. 2170

Q. 138. Are the remarks contained in the column headed "Remarks" true of your own knowledge? A. They are.

Q. 139. In selecting the pages of Webster's dictionary and defendant's dictionary to be incorporated in this exhibit, what pages did you select? A. The same pages as Professor Peck selected for his exhibit. 2171

Q. 140. Please proceed with the explanation of your exhibit. A. Pages 19 to 28, both numbers inclusive follow the same general principles of markings, but contain a closer analysis, in order to show how much matter in the defendant's book is identical with other dictionaries, exclusive of Webster's unabridged. The green lines alone will require additional explanation. In the extracts cut out of defendant's book I have underscored in green the words which are to be found in Cassell's and other English dictionaries. These green markings do not in any way refer to Webster's unabridged. My aim was simply to show that without using Webster's unabridged dictionary at all, a most considerable portion of the defendant's book could be made up. In these pages I have taken no account of paraphrases; had I done 2172

2173

C. O. Sylvester Mawson—Direct.

so it would have been possible to account for virtually every word in the aforesaid manner.

On page 29 of this exhibit will be shown an analysis of these pages which I have more closely marked, namely pages 19 to 28, and in order to prepare this analysis I counted every word and found that the proportion of matter in defendant's book identical with the specified English dictionaries is as follows:

2174

Identical with Ogilvie's and Cassell's combined, 76½%.

Identical with Ogilvie's, 70%.

Identical with Cassell's 61%.

Identical with Chamber's 49%.

Identical with Webster's Unabridged 45%.

2175

This 45% in Webster's is really more than the exhibit actually warrants. I mean that the terms in Webster's are so much scattered and as a rule are not connected, whereas in other dictionaries, but most particularly in Cassell's the language is closer and with fewer gaps. Moreover this 45% of identical words which are common to both Webster's Unabridged and defendant's dictionary does not mean that outside the other dictionaries I found 45% of matter which could be found in Webster's, but the whole of the matter referred to which is enclosed in that 45% could be found in the other dictionaries specified.

2176

Q. 141. Do you mean to say that the same identical matter included in the 45% of words in defendant's dictionary which can be found in Webster's Unabridged Dictionary of 1847, is also included, for example in the 49% of matter in defendant's book which may be found in Chamber's dictionary, in the 61% which may be found in Cassell's dictionary, in the 70% which may be found in Ogilvie's dictionary, and the 76½% which may be found in Ogilvie's and Cas-

sell's combined? Is that what you mean? A. Generally speaking, yes, although in the case, for example Chambers, where the arrangement, the typographical arrangement of Chambers is so different, it would not be so in each and every word, but it may be said that the whole of that 45% is included in Cassell's and Ogilvie's combined.

Q. 142. Do you mean to say that taking and comparing the same pages of defendant's dictionary and the same pages of Webster's dictionary of 1847 that Dr. Peck took and compared in his exhibit, that not more than 45% of identical words can be found common to the two dictionaries? A. That is what I mean, I did not include paraphrases, only the identical words. 2178

Q. 143. Are these words found as a rule consecutively in Webster's? How are they found especially as compared with Cassell's and Chambers' Dictionaries? A. In some instances to make up the sense they were found a line or two apart. It would have been possible to have taken a copy of the New York Sun and marked up some of the columns and say these are the words which have been found, so wide apart and so different from the Webster's dictionary were the words in defendant's dictionary. 2179

Q. 144. How do you explain such similarities or identities as do appear between defendant's dictionary and Webster's dictionary, answer fully? 2180

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial and as calling for a conclusion of the witness, as his explanation will be no evidence.

A. As is well known to all men engaged in lexicographical work there is a certain percentage of identical expression running through all dictiona-

2181

C. O. Sylvester Mawson—Direct.

ries. These similarities may be accounted for, first, as unavailability; second, the use of synonyms; third, coincidence; fourth, common sources.

- Q. 145. Please explain the four terms which you have used? A. By unavailability, I mean, that in the production of any English dictionary so long as the English language is being used, there will be bound to be a certain amount of identity.
- 2182 In other words, were half a dozen men to sit down in a room, without reference to any book whatsoever, and define for example one hundred ordinary English words and if their definitions were afterwards compared, it may safely be said there would be a similarity of 30% to 40%.

- Again in defining of terms there are certain stereotyped forms common to many dictionaries which will be sufficiently illustrated by my referring to the common definition of an adjective as beginning with "of, or pertaining to"; for example, "fragmental, of or pertaining to fragments". Adverbs are commonly defined "in an—manner"; for example, "adverse, in an adverse manner". Many abstract nouns are defined in the following language, "the act of—" or the "state of being—", this being the case where the verb has been previously defined.
- 2183

- I need not increase these illustrations, but you can see by taking the number of adjectives, verbs, and adverbs, not to mention other parts of speech,
- 2184 that this method of defining would account for very great similarity in the dictionaries that employed these forms.

By use of synonyms, I mean that where a synonym naturally suggests itself as a definition of a word, such a synonym would be used by lexicographers generally, even without reference to any book of reference.

Q. 146. Of course the number of synonyms for any given word is necessarily limited? A. The

number of synonyms for any given word is necessarily limited, as you say.

Q. 147. In the case of a brief or abridged dictionary is the use of synonyms as a form of definition more common than in other dictionaries?

A. It is.

MR. CARROLL: Objected to as leading.

A. (Continued.) In a small dictionary being especially a popular dictionary or one designed for use of students, the synonyms, where such can be given to form part of the definitions are more serviceable and as a greater saving of space. 2186

Then on the matter of co-incidence, that is in part covered by my illustrations. For various reasons men, after consulting different authorities, and then attempting to define any given word, would be likely, perhaps unconsciously, to use language which they had read elsewhere, and I think in the definitions of all English terms co-incidence would account for a very fair percentage. 2187

Q. 148. Might not the illustrations you have given under the headings of "Unavoidableness" and the "Use of Synonyms" also be an illustration of the use of the same language by mere co-incidence? A. To some extent yes, except as regards the use of stereotyped forms.

Q. 149. Please explain your fourth ground for accounting for similarities, namely "common sources." A. This seems to be self explanatory. I mean, by common sources I refer especially to authorities such as Johnson's Dictionary which was first published in the year 1755, and which since its publication has been the common source of all English dictionaries that are published in Great Britain, as probably in other parts of the English speaking world. 2188

2189

C. O. Sylvester Mawson—Direct.

Q. 150. In this exhibit which you have prepared in answer to Dr. Peck, have you given any illustration of the similarities between various dictionaries due to the four causes which you have specifically referred to? If so, please specify the pages of exhibit and explain them. A. I have prepared such an exhibit in the pages 30 and 31 of complainant's parallel column exhibit in answer to

2190 Peck's exhibit. This exhibit consists of seven columns, each representing matter taken from as many dictionaries. Column one consists of matter from defendant's dictionary which, by the way, as you will see by its being in red, forms part of complainant's red letter exhibit. Column 2 consists of corresponding terms in Worcester's; column 3 of the corresponding terms in Annadale's Concise Dictionary; column 4 of corresponding terms in Stormonth; column 5 of corresponding terms in Nuttall's Dictionary; column 6 of corresponding terms in the Student's Standard Dictionary published by Funk & Wagnall Company; and column 7 of the corresponding terms in the Concise Oxford Dictionary, which book is published by the Clarendon Press of Oxford, and is based upon the new Oxford English Dictionary.

2191

Q. 151. Is the matter appearing in the seven columns true and complete copies of the matter appearing in the several dictionaries designated by the heading of the respective columns? A. Yes,

2192 except in so far as the omissions are indicated by dots. In Webster's, for example, in order to shorten some of the definitions I have left omissions which are clearly indicated, but as only the words underscored are taken into account in this comparison, the omission is not of importance.

Q. 152. Have you summarized what appears from this comparison of the several dictionaries mentioned on pages 30 and 31 of this parallel column exhibit? A. I have.

C. O. Sylvester Mawson—Direct.

2193

Q. 153. Please state results found by you. A. Of the definitions common to defendant's dictionary and the respective dictionaries with which it is compared in this exhibit, the proportion of similar expression is as follows:

Worcester's 44%.

Annandale's Concise 46%.

Stormonth's 39%.

Nuttall's 39%.

2194

Student's Standard 32%.

Concise Oxford 28%.

The average for these six books being 38%. Taking the first four books named, namely, Worcester's, Annandale's Concise, Stormonth's and Nuttall's, I find that the proportion of defendant's dictionary containing expressions identical with these four dictionaries combined is 80%. In other words by merely taking these four dictionaries which I may say were taken at random, I can account for 80% of the actual language used by the editor of the defendant's dictionary in the corresponding definitions. I may note in connection with this exhibit that none of the dictionaries named therein are based upon, nor are they even alleged to be based upon Webster's unabridged dictionary.

2195

Q. 154. Of the various dictionaries which you have named and which you have referred to in this exhibit, please designate which are English dictionaries and which are American dictionaries. A. Of the books named in this entire exhibit, the following are British dictionaries: Annandale's Concise, Stormonth's, Nuttall's, Concise Oxford, Cassell's Dictionary, Chamber's 20th Century Dictionary, Ogilvie's Imperial Dictionary, Johnson's English Dictionary, The Student's English Dictionary.

2196

2197

C. O. Sylvester Mawson—Direct.

The following are published in the United States: Webster's Unabridged, Worcester's Dictionary and the Student's Standard.

Q. 155. You have referred to Johnson's dictionary as a common source for all subsequent dictionary makers. Have you included in this exhibit any comparison of Johnson's with a view to illustrating your point? If so, please explain it. A. I have here such an illustration, namely page 32 of this exhibit. This page consists of four columns; column 1 is a page from Johnson's dictionary, 1799 edition, column 2 is a page from Webster's Unabridged Dictionary of 1847; column 3 is the corresponding matter taken from the British Empire Dictionary, and column 4 is the corresponding matter from the defendant's dictionary. It will be seen that column 3 and 4 have been taken from complainant's red letter exhibit. The matter underscored in Johnson's dictionary is identical with Webster's Unabridged, also underscored. In the British Empire Dictionary and in the extract from the defendant's dictionary, I have underscored the matter which is identical with the corresponding terms in Johnson's. From this it will be seen that Johnson's dictionary is one of the main sources of all later English dictionaries and of these specified dictionaries in particular. The British Empire Dictionary for example contains between 49% and 50% of matter traceable to Johnson's dictionary, in so far as the definitions are common to both books. By traceable, I mean that the language is identical. To show how much Webster relied upon Johnson's Dictionary, I will quote you the definition of "congenital" which is identical in both Webster's and Johnson's and is as follows: "of the same birth; born with another; connate, begotten together."

2200

Q. 156. Mr. Hale: The exhibit identified and explained by the witness is now offered in evidence

C. O. Sylvester Mawson—Direct.

2201

and the same is received and marked "Complainant's Parallel Column Exhibit in Answer to Peck's Exhibit," the same consisting of thirty-one pages, numbered and initiated, and enclosed in an envelope.

Q. 157. Will you please state shortly in the form of recapitulation the facts upon which you based the opinion which you have expressed, that defendant's dictionary is not founded upon or based upon Webster's Dictionary of 1847? 2202

MR. CARROLL: I object to that question on the ground that witness has not stated such to be his opinion, and on the further ground that if he had so stated it it would have been incompetent, irrelevant and immaterial, inasmuch as this witness has not been qualified as an expert to give such an opinion.

2203

A. I think my exhibit clearly demonstrates that defendant's dictionary can in no wise be said to have been either based upon or in any way inspired by any edition of Webster unabridged.

First: The orthography to the extent of the comparison previously stated, is British and not American (by American I mean such as was introduced by Noah Webster and is now the accepted American form). Such terms as have been changed to an American form and which have not been put in correct alphabetical place further show that an English book and not Webster's was the source. 2204

Second: The character or general complexion of the defendant's book is British and not American. Noah Webster, while not ignoring the English sense altogether, does not insert them to the exclusion of the American sense. As will be seen

2205

C. O. Sylvester Mawson—Direct.

from the list already introduced into this record there are a number of definitions in defendant's book which do not contain the American sense at all, nor is the British sense characterized as such. If Price for instance in making the first dictionary had had Webster's Unabridged Dictionary before him, he would not have omitted the American definitions altogether, for his book consists of
 2206 a good number of definitions or parts of definitions which he characterizes as American (U. S.).

MR. CARROLL: I must here interrupt the witness and protest against such argumentative conclusions which are obviously incompetent and request counsel to direct his witness to confine himself.

MR. HALE: Proceed with your answer, confining yourself, as far as possible, to the features which are in the books.

2207

Third: A word for word comparison between the defendant's book and Webster's dictionary shows so little similarity so great a dissimilarity that it is inconceivable that a copy of Webster's Unabridged was consulted by either Roe or Price. As is shown by "Complainant's parallel column exhibit, in answer to Peck's exhibit, the proportion of identical words is actually smaller in Webster's than
 2208 any other dictionary with which I have compared it. And I state it as a matter of fact, and a proved fact as is brought out by the same exhibit, that Webster's Unabridged formed no part whatsoever of the editor's stock in trade.

MR. CARROLL: I object to that and ask that it be stricken from the records as an incompetent conclusion of the witness.

(Witness continues): And there is no evidence,

C. O. Sylvester Mawson—Direct.

2209

certainly in so far as Professor Peck's exhibit goes to show, that Webster's was even consulted at all.

Fourth: The percentage I have shown on page 31 of complainant's parallel column exhibit, that there is an average percentage of 38 of identical terms—

MR. CARROLL: I again object to this answer as mere repetition of testimony already given and as a waste of time. 2210

(Witness continuing): Were I to include Chamber's and Cassell's dictionaries the average percentage would be increased to over 45%, and so by this method of reasoning alone which seems to me a very sound one, Webster's would be out of the running altogether.

Fifth: The last page of complainant's parallel column exhibit shows to what extent Johnson is a common source of both Webster's Unabridged, The British Empire Dictionary and other English dictionaries, so that wherever similar language will be found in a definition in Webster's Unabridged and in defendant's dictionary, that similarity can generally be traced to Johnson's dictionary. In short, whatever similarity there is, is already accounted for and simply goes to show that Webster's Dictionary instead of standing to the defendant's dictionary in the relationship of parent and offspring really stands in that of a very distant cousin. 2211

Q. 158. From what source did you obtain the British Empire Dictionary which you have produced here in evidence? A. We secured it through our London Agents, Messrs. G. Bell & Sons, Ltd. 2212

2213

C. O. Sylvester Mawson—Cross.

CROSS-EXAMINATION by Mr. Carroll:

x Q. 1. Are you a university man? A. I am.

x Q. 2. What university? A. Oxford.

x Q. 3. When did you graduate? A. 1895.

x Q. 4. What college? A. Balliol.

x Q. 5. What degree did you take? A. M. A.

2214 x Q. 6. Have you any other degree? A. I have not, but I am a member of various learned societies, for example, the London Philological Society, the Royal Asiatic Society, The Royal Society of Arts, The American Oriental Society, the Societe Asiatique of France and others.

x Q. 7. Is your connection with these societies anything else than that of a member? A. That is all, or fellow.

2215 x Q. 8. Where did you go when you graduated? A. I was connected with various literary work in England and I travelled a great deal, made a special study of Oriental languages, came to this country, and I think the rest I have already explained in answer to Mr. Hale at the beginning of this interview.

2216 x Q. 9. The only real study of languages that you have made has been that of Oriental languages? A. No, I have been a student of English as an Englishman, and as a lover of languages generally I have made a special study of English pretty much all my life, and I hold that no man can have a full knowledge of English who is not well up in classical languages, in particular Sanskrit. Without it you would not be a competent judge on many of the finer points, especially in dictionary work, and as proof of the success I have attained and of my skill in this matter, I would not be in the employ of G. & C. Merriam Company and certainly would not be here at the present moment were I not efficient in this branch.

x Q. 10. By "this branch," you mean the Oriental branch? A. No, I mean dictionary work, that is merely a side line with me, Oriental work.

x Q. 11. I understood you to say that you were with the Merriam Company as Oriental authority?

A. I am here as general editor.

x Q. 12. What time were you employed by the publishers of the Century Dictionary? A. The work I did for the Century Dictionary was done, as you say, on the side and was done between three and four years ago.

x Q. 13. What did the work consist of? A. 2218
Going through their dictionary from A to Z, going through every definition, picking out all the Oriental terms, taking the English terms, polishing them, improving them, revising them, making additions where necessary, doing all the fine work, such as was done by Professor Whitney, and on his death Dr. Benj. E. Smith chose me to do the same work. Needless to say he would not have done so if he had not been satisfied with my ability.

x Q. 14. When were you employed by Funk & Wagnalls? A. Up to December, 1910. 2219

x Q. 15. Beginning at what date? A. Beginning about the year previous, beginning in the earlier part of the year, I forget when, I left them to join the Merriam Company.

xQ. 16. So your whole dictionary experience has been included practically within the last four years? A. Yes, and no. I have been more closely associated with the big dictionaries in the last four years than at any previous time in my career, but any student of English must be tolerably well acquainted with English dictionaries generally, and I can assure you that the training in the big offices of this country, as in Funk & Wagnalls or the Merriam Company counts for a great deal. One year of that is worth ten years of desultory study out of it. In any other work four years would be considered a very long apprenticeship. 2220

2221

C. O. Sylvester Mawson—Cross.

x Q. 17. When did you first see a Webster's dictionary? A. So long ago, I can't remember.

x Q. 18. Can you give any approximate dates? A. Webster's dictionary, you must understand, is the standard work in England, so much so that not until I was a grown man did I realize that it was an American publication. It is identified with the name of George Bell, and is used in all the
2222 schools and colleges, and the houses of literary men, and is regarded as the best one volume dictionary of the language, and it is the dictionary that is most generally consulted. I can't tell you when I first became acquainted with it, it is so long ago.

x Q. 19. Have you ever made a careful study of Webster's dictionary? A. I am doing it all the time. Our work consists here in going through the dictionary over and over again, polishing, refining, revising, and to ask any man on the Web-
2223 ster staff if he has made a study of their publication seems to me somewhat unnecessary.

x Q. 20. Had you made a careful study of the Webster dictionary before you came to the Merriams? A. I did. I went through it in connection with the other work, but particularly as Webster's Dictionary embodied a large number of Oriental terms I may say I had previously gone through every word of their International Dictionary, that is the dictionary which preceded the
2224 New International, before joining their staff.

x Q. 21. What was the occasion for that? A. In connection with my studies as Oriental specialist.

x Q. 22. When was that? A. Four years ago.

x Q. 23. Did you ever hear of Professor Mahn? A. For the moment, I can't think of him.

x Q. 24. Did you ever hear of Professor Skeat? A. That also seems an unnecessary question to ask a lexicographer, as he is one of the greatest authorities on etymology we have had.

x Q. 25. Then you have heard of Professor Skeat? A. I have.

x Q. 26. Can you give the names of his books? A. Skeat's Etymological Dictionary.

x Q. 27. When was that published? A. Some time, I believe, in the latter quarter of the 19th century, I cannot say the exact date. We have the book in the office.

x Q. 28. You think however it was about 25 or 30 years ago? A. I have said I thought it was published some time in the latter quarter of the 19th century. We have the book in the office and consult it very, very frequently. It is on our shelves as are also all the leading works of reference, but I don't make a point of committing the dates of their publication to memory. 2226

x Q. 29. Do you know what Grimm's Law is? A. I do.

x Q. 30. What is it? A. Grimm's Law briefly stated, shows that various words derived from the Sanskrit, for instance, undergo certain changes in other languages derived from the same source, certain consonants for instance being subsituted for others. 2227

x Q. 31. Did you ever hear of Karl Vernor? A. I have, but I cannot recall very clearly.

x 32. Do you know in what respects his discoveries followed Grimm's law? A. I may say right here, that I am not a specialist in this branch of the work. This would come under the branch of etymology and orthoepey, and I am not a specialist of that particular branch. 2228

x Q. 33. You really only claim to be a specialist in Oriental work? A. I claim to be a general editor, a general lexicographer, I only claim to be a specialist on Oriental terms.

x Q. 34. In the careful and detailed studies of Webster's Dictionary which you say you have made, did you discover any traces of the work of Raskin? A. I do not recall.

2229

C. O. Sylvester Mawson—Cross.

x Q. 35. What was he noted for? A. That I also do not recall.

x Q. 36. Did you ever hear of him before? A. His name is not very familiar to me.

2230 x Q. 37. In your various exhibits you have spoken many times of a so-called English form of spelling and a so-called American form. Precisely what do you mean by this, and what authorities do you depend upon for calling one spelling and another English or American? A. I think my exhibit will answer that question. The authorities I depend upon are the English dictionaries referred to in complainant's parallel exhibit, and by English forms of spelling I mean the forms which are commonly used by such dictionaries, as distinguished from the forms which are approved and are now generally adopted by the best American dictionaries.

2231 x Q. 38. What is the English and what the American form of spelling the word "medieval"? A. The English is "mediaeval" and the American form is "medieval."

x Q. 39. You would say then that in Webster's it is spelled "medieval"? A. That is what I mean.

x Q. 40. How do you account for the spelling then in Webster's Condensed Dictionary, which is "mediaeval"?

2232

MR. HALE: Objected to as incompetent, irrelevant and immaterial, because the book referred to is not in issue in this case.

A. I had no part whatever in the preparation of that book and can offer no opinion on the matter.

x Q. 41. What is the English form of spelling "aesthetic"? A. "Aesthetic."

x Q. 42. And the American form? A. Two forms are common in this country, there is really no American form. Both the "aesthetic" and

“esthetic” are to be found in American dictionaries.

x Q. 43. Which do you consider really American? A. Unless I found the same spelling in Webster’s New International Dictionary, Funk & Wagnall’s Standard Dictionary and in the Century Dictionary, I would not use the term “American spelling,” unless it was common. I confined the use of the word “American” spelling to such words as are represented by the above dictionaries in this country, such words, for instance, as those ending in “re” in the English form and which in the American form end in “er”; such also as the words in “our” in English which in the American form are “or”; and those which in the English form end in “ise” and in the American form “ize.” 2234

x Q. 44. Is it not a fact that many words beginning in “en” and “in” are used interchangeably in the two countries, both forms being approved, for example, “engulf” and “ingulf,” cited by you, from your exhibit? A. Generally speaking any such word beginning with “en” or “in,” the American form is the “in,” whereas the general British form is “en.” For instance, in this country we say “inclose,” whereas in England “enclose” is more common. 2235

x Q. 45. Is it not a fact however that both of these forms are given in the three American dictionaries which you have named as authorities, namely,—Funk & Wagnall’s Standard, The Century and Webster’s? 2236

MR. HALE: Objected to as irrelevant and immaterial, the question being whether it is true that defendant’s dictionary follows Webster’s Dictionary of 1847, rather than whether there is any American authority for defendant’s form of spelling.

2237

C. O. Sylvester Mawson—Cross.

A. Where both forms are given in the American dictionaries named, it will be found that the definition is to put under the approved American form. For instance "en" or "in" the American dictionary may put it "inclose" and define it there, and at the end of the definition or, as the case might be, at the beginning of the definition, "also enclose," showing that form will also be
 2238 seen, and "enclose" in the proper dictionary place will simply be a cross reference, "see inclose," or "same as inclose," but the place where the definition occurs is the approved American form, although both forms appear in the dictionaries.

x Q. 46. Are you sure all the three American dictionaries, Century, Standard and Webster's agree on the spelling of the words beginning in "en" or "in," also on "despatch" or "dispatch"?
 2239 A. In connection with this case, I have confined my references to the Webster's dictionaries, and in instances quoted I have not looked up each and every one to see what form is preferred by the Standard Dictionary or by the Century Dictionary, but generally speaking, it will be found that the form adopted and accepted by Webster is the one approved of by the other two dictionaries especially in the Standard Dictionary, which is ultra-American in its spelling.

x Q. 47. You have mentioned the following
 2240 differences or preferences in the English spelling and American spelling, namely you have stated that the English preferred to spell words like "honor" in "our" while in America they prefer to spell them "or"; the English prefer "theater" in "re" in America in "er"; words like "ingulf" the English prefer "en" whereas the Americans prefer them "in". Can you think of any more instances of this kind where there is preference shown for one form by English spellers and an-

other form by American spellers? A. There are instances which will be found in the list embodied in the earlier part of this deposition.

x Q. 48. How many such words are there altogether, that is to say, words that have one form of spelling preferred in England and another preferred in America?

MR. HALE: Objected to as incompetent, irrelevant and immaterial, question being whether defendant's dictionary follows the Webster's dictionary of 1847. 2242

A. I cannot tell you in figures the exact total number of words that have an American form distinct from the British form, but so far as I have examined defendant's dictionary in comparison with Price's British Empire Dictionary I found that in about 75 instances the British form of spelling had been retained in defendant's book and that changes from the British form had been made in only 189 instances. From these figures you will see that 40% of the British forms have not been changed. 2243

x Q. 49. Are you certain that no more than 264 words contained in defendant's dictionary have what may be called two spellings, one English and one American? A. I merely counted the instances where the spelling in defendant's dictionary differed from the spelling in Price's, no more. 2244

x Q. 50. But in order to arrive at your conclusion, twice stated on the record, that 40% of the words contained in defendant's dictionary, which have both an English and American spelling, are given in an English form, you must have counted or assumed to count all of the words in defendant's dictionary which could have two forms. It is only in that way that you arrive at the total 100%. A. This is a simple matter of arithmetic and my figures are borne out by the list embodied

2245

C. O. Sylvester Mawson—Cross.

in this deposition, as well as by the exhibits, which will show how I have arrived at my result.

x Q. 51. How do you know that 40% of the words contained in defendant's dictionary could have an English or American spelling, unless you have counted all of the words in defendant's dictionary which could have two spellings? A. The whole of the words were compared, I only counted
2246 the dissimilarities.

x 52. The whole of what words were compared? A. The whole of the words in the defendant's dictionary were compared with the identical words in Price's dictionary.

x Q. 53. Then there may have been a number of words in Price's dictionary which escaped your notice, but were nevertheless spelled in the American way, and which would also be spelled similarly in the American way in defendant's dictionary?
2247 A. That is a wrong conclusion.

x Q. 54. Why? A. Because as a lexicographer, and as an Englishman educated in England, I am more familiar with the English form than with the American form and departure from the accepted English form would immediately strike me, but in addition to this,—which I had forgotten to state before—we have a printed list in the office which gives very exhaustively all the spellings approved of by Noah Webster and which have
2248 been retained or have not been retained in our late edition. This list I used in connection with my analysis of defendant's books and also of Price's dictionary.

x Q. 55. Then it is a fact that many of the spellings given in the later Merriam editions are not the spellings approved of by Noah Webster?

MR. HALE: Objected to as incompetent, irrelevant and immaterial.

A. There are some few instances such as that.

C. O. Sylvester Mawson—Cross.

2249

x Q. 56. I think you spoke of quite an exhaustive list. A. We have an exhaustive list which shows in parallel columns the form approved of in the earlier Webster's and the forms which are now adopted. There are instances where the form suggested or used by Noah Webster has been departed from, for reasons which have seemed sufficient to the publishers of this dictionary, but in the list I have already given you of these differences, I have only shown—I have only classed as Americanisms the terms which were approved by Noah Webster and which are still retained in our present dictionary. 2250

x Q. 57. In so far as your present dictionaries have changed the spelling approved of by Noah Webster, they are not Websterian?

MR. HALE: Objected to as incompetent, immaterial and irrelevant and as calling for the mere conclusion of the witness. 2251

A. Such changes in the present edition were made by the editor in chief and in which I have no part.

x Q. 58. Do you consider they are Websterian?

MR. HALE: Objected to as incompetent, immaterial and irrelevant and as calling for a conclusion of this witness, who has not used the term "Websterian" in his entire deposition. 2252

A. I offer no opinion, outside the terms that are included or referred to in the present exhibit and in this deposition.

x Q. 59. You wouldn't say, however, would you, that a form rejected by Webster was Websterian?

MR. HALE: Objected to for the same grounds as last stated, and counsel is requested to define the sense in which he is

2253

C. O. Sylvester Mawson—Cross.

using the word "Websterian" so that witness can answer it in the same sense as the counsel uses it.

2254

x Q. 60. Do you understand the term "Websterian" that I am using? A. We do not use the term "Websterian" in connection with our dictionary and to me the word has no special significance.

x Q. 61. I mean in the sense which the suffix "I. A. N." is always intended to indicate, "pertaining to Webster".

MR. HALE: Counsel is requested to state plainly and fairly with what sense he used Websterian" in his question.

2255

MR. CARROLL: Until counsel for complainant made his objection, the witness obviously had no difficulty understanding what "Websterian" meant and counsel for defendant has now sufficiently defined it.

MR. HALE: It does not appear that the witness understood the word "Websterian" in the same sense that counsel uses it.

x Q. 62. What does the witness understand by the word "Websterian"?

2256

MR. HALE: Objected to as incompetent, irrelevant and immaterial.

A. By "Websterian" I would understand of or pertaining to any person bearing the surname Webster.

x Q. 63. It is obvious the witness understands the term exactly in the sense which the counsel for defense used it, the question in which the word was used is also repeated. (Question read by stenographer.) You wouldn't say, however, would

you, that a form rejected by Webster was Websterian?

MR. HALE: Objected to as incompetent, irrelevant and immaterial.

A. In your question you used the phrase "rejected by Webster". I ask what you mean by that?

x Q. 64. You have stated where there were two possible ways of spelling a word Webster had selected one way of spelling it and rejected the other way, and that in the present Merriam edition the form not approved by Webster and therefore rejected by him is used. It is that which I mean by "rejected." A. Yes Webster made these changes in accordance with his lights and his knowledge of philology as it existed in his day, but there are very sound reasons for making changes in certain words which have been done, and such changes have been made in accordance with the ruling of the New English Dictionary, but my examination of defendant's book shows that in no single instance has he retained the form approved by Noah Webster in such forms as have been rejected by the present Webster Dictionary. 2258 2259

x Q. 65. I thought you said that in 189 cases at least, defendant's dictionary had used the approved American form.

MR. HALE: Objected to upon the ground that the witness referred to a list of words spelled in the usual English form, which form had been rejected by the Webster 1847 edition. 2260

A. The 189 vocabulary terms referred to are American spellings which in every instance, in so far as the terms themselves are to be found in

2261

C. O. Sylvester Mawson—Cross.

Webster's Unabridged of 1847 were approved by Noah Webster himself and are retained today in the International Dictionary.

x Q. 66. Are there words not included however in the 189 or 75, which now have, or at some time in the past have had, two different spellings, one Websterian and one non-Websterian?

2262

MR. HALE: Objected to as irrelevant and immaterial and because the revision of an English book to make it conform to modern American spelling does not make it a Webster Dictionary.

MR. CARROLL: Objected to as statement of counsel embodies a conclusion and improper statement.

A. I think I have already answered this question.

x Q. 67. Is that not so? A. There are such words.

2263

x Q. 68. Why have you not included such words in your total 100% of words with two spellings upon which you have attempted to compute the percentage of so-called English spellings in defendant's book? A. It was only part of my scheme to make a list of the words which I found approved of by Webster and which, although the defendant's book claims to be based on Webster's, do not conform to the Webster's method of spelling, and although as I have before remarked I compared the book very thoroughly with a list of all the Websterian spelling in our dictionary, I did not come across any American or English forms outside of the list already given. As I have already explained, I only made a count of the dissimilarities, where the words are not dissimilar the spelling is identical with the accepted English form.

2264

x Q. 69. Then you really have no hundred percent. upon which to base your computed 40%? A.

Oh, yes, I based it upon a 100% of 264, which is the sum of 189 terms changed to the American form and of the 75 others which should have been changed to an American form, but which have been left in their British form; 75 of that total is approximately 40%.

x Q. 70. How do you know that there are not many other words which might have been given in the so-called Price book in an English form, but which were given in the Price book in an American form, and were also given in the defendant's dictionary in the American form? 2266

MR. HALE: Objected to upon the ground that the witness has not so stated and no evidence has been offered of that fact.

A. For the reason aforesaid, that I checked the defendant's book with a list of Americanisms in this office, and I did not find any such instances. 2267

x Q. 71. The list of Americanisms in this office you have already stated was a list of changes which have been made by subsequent editors of Merriam's Webster, from the original Webster's spelling, is that not so? A. That is so.

x Q. 72. Then how could you be sure that 164 is the grand total of all words contained in defendant's dictionary which might have had a different spelling from that contained in the Webster's of 1847? A. My examination does not show that there were such differences. 2268

x Q. 73. What do you mean by that answer? A. This is what I meant, if there had been such instances, I would have noticed them in my careful examination and I would have recorded them.

x Q. 74. You are perfectly sure then that 264 is the grand total sum of all possible different spellings of words contained in defendant's dictionary? A. I noted no others.

x Q. 75. Does that convince you there were no

2269

C. O. Sylvester Mawson—Cross.

others? A. As I prepared these exhibits and examined the books very carefully, it does.

x Q. 76. You have already stated that there were several other instances of words spelled in a different way in a more modern Webster's, and these words are not included in the 264. A. I did not say however that I came across such instances in defendant's book, I made it as a general observation.

2270

x Q. 77. There may, nevertheless be such? A. I did not say so.

x Q. 78. Did you not say that there is in this office a list of words, the spelling of which has been changed by subsequent editors from the spelling of these same words in the original Webster's? A. We have such a list in the office the most exhaustive of which is contained in the old International Dictionary which gives a list of the words which have variant spelling.

2271

x Q. 79. Did I misunderstand you when I understood you to say that there was also a list in the office, separate and apart from the list included in the old International, which list contained words, the spelling of which had been changed by subsequent editors of Webster's dictionaries from the spelling of old Webster's dictionaries? A. Perhaps my answer was not sufficiently plain, but I was referring particularly to the list named, in the old International Dictionary.

2272

We have one or two other lists which cover pretty much the same ground, but I also compared this list with our new International, in order to make sure of getting our present day American accepted forms.

x Q. 80. The present day accepted American forms in many instances differ from the forms accepted by Webster, do they not?

MR. HALE: Objected to as irrelevant and immaterial.

A. In certain cases, yes.

x Q. 81. Have you a list of such instances? A. I am not aware we have a separate list of instances you refer to.

x Q. 82. How many words are there on the list which you have referred to as contained in the old International Dictionary, the words with two spellings? A. I have not counted them.

x Q. 83. How many words which appear on that list and which have two spellings are contained in the defendant's dictionaries? 2274

MR. HALE: Objected to as irrelevant and immaterial.

A. I made no separate calculation outside of the figures which I have given.

x Q. 84. Then there may be more than 264 words contained in defendant's dictionary which appear on that list? 2275

MR. HALE: Objective to as merely argumentative and asking for an opinion.

A. There are not more than that number which have an accepted American form. The defendant's dictionary, I understand, is an American dictionary.

x Q. 85. I think you stated that that list contained only words which had two different spellings, am I correct in that thought? 2276

MR. HALE: Objected to unless counsel will state whether he means that the words referred to have two different accepted spellings today and not words which formerly were spelled one way and now are spelled another which would be true of a vast number of words in the English language. The question is therefore objected to as ambiguous.

2277

C. O. Sylvester Mawson—Cross.

A. I have already stated the list referred to is a list of variant spelling.

x Q. 86. As they existed at the time the old International was published, is not that a fact? A. That is a fact.

2278 x Q. 87. You don't know therefore how many words contained in defendant's dictionary are included in that list, do you? A. I made no separate calculation outside of the figures already given you.

x Q. 88. Can you state that only 264 words that appear on that list also appear in defendant's dictionary?

MR. HALE: Objected to as irrelevant and immaterial

2279

A. I have no reason for discrediting my own figures, as I think they show the whole of the changes that have been made from the English form as recorded in Price's Dictionary to the accepted American form.

IT IS HEREBY STIPULATED, that the following named dictionaries shall be assumed in evidence without being actually produced and offered and may be referred to at the final hearing and at any and all subsequent appeals herein with the same force and effect as though the said books had been produced and marked in evidence, to wit:—

2280

Webster's Dictionary, 1847 edition.

Webster's Dictionary, 1864 edition.

Webster's International Dictionary, Edition 1890.

Webster's New International Dictionary, Edition 1909.

Worcester's Dictionary, 1859 edition.

Johnson's Dictionary, 1799 edition.

Funk & Wagnalls' Standard Dictionary.

Funk & Wagnalls' Student's Standard Dictionary.

C. O. Sylvester Mawson—Cross.

2281

Century Dictionary.
 Cassell's Dictionary.
 Chamber's 20th Century Dictionary.
 A Concise Oxford Dictionary.
 John Ogilvie's Imperial Dictionary.
 Annandale's Concise Dictionary.
 Stormonth's Dictionary.
 Nuthall's Dictionary.

2282

x Q. 89. In general did Webster use the diphthongs "æ" and "œ" or did he use the simple letter "e" in place of them in such words as "ægis" "aesthetic", "faecal" etc? A. As a general rule Webster preferred the simpler form.

x Q. 90. The following words are spelled in Webster's Condensed Dictionary with the diphthongs: "ædile", "ægilops", "ægis", "æolian", "æon", "aesthetic" and "ætiology". For all these forms the spelling noted is given first as the preferred form, a second form is given only in the following words: "egile", "eon" and "esthetic". What authority is there for this spelling in a so-called Webster's Dictionary?

2283

MR. HALE: Objected to as incompetent, irrelevant and immaterial and because the book referred to, Webster's Condensed Dictionary, is not in issue. Objected to further because defendant claims to have based his book upon and followed Webster's Dictionary of 1847 and does not claim to have followed Webster's Condensed Dictionary which is a copyrighted book.

2284

MR. CARROLL: The question is asked for the purpose of showing how loose is the use of words which have two spellings in complainant's own books.

MR. HALE: That does not add to the relevancy or materiality of the question.

2285

C. O. Sylvester Mawson—Cross.

A. I offer no opinion on the words you refer to.

x Q. 91. I suppose you can offer no opinion about the spelling of "anapaest" which appears on page 19 of Webster's Condensed Dictionary?

MR. HALE: The same objection.

A. I do not.

2286

x Q. 92. Do you know any authority for the spelling of the word "fogy," "fogie" and "fogey"? This word appears so spelled in Webster's Condensed Dictionary.

MR. HALE: Objected to as irrelevant and immaterial. Further, because it appears that the book referred to was a book first compiled and copyrighted in the year 1884 and that it conformed with the then existing Webster's Dictionary.

2287

A. I offer no opinion on that book.

x Q. 93. You know of no authority then for such spelling? A. The word "fogy" will be found spelled both ways in English and American books.

x Q. 94. Which do you call the English form? A. "Fogey" is one of the English, I don't know whether there is a hard and fast English form. I have seen the form "fogy" in England and "fogey."

x Q. 95. Have you seen the form "fogie" in any
2288 recognized authority?

MR. HALE: Objected to as incompetent, irrelevant and immaterial, because the book, Webster's Condensed Dictionary, referred to by counsel is not in issue in this case.

A. "Fogie" is a variant. I cannot name any work I have seen it in, but I think I have come across it in my dictionary work.

C. O. Sylvester Mawson—Cross.

2289

MR. HALE: It is further objected to upon the ground that the witness in his list of words offered in his comparison of the dictionaries does not rely in any way upon the spelling of this word.

x Q. 96. How would you spell the word which is the opposite of musical?

MR. HALE: Objected to as irrelevant and immaterial, because the witness has in no way used this word in his comparisons. 2290

A. I would spell it "unmusical."

x Q. 97. Do you know of any authority for the spelling which appears in Webster's Condensed, "inmusical"?

MR. HALE: Objected to as incompetent, irrelevant and immaterial, because the book is not in question and the word has not been used by witness in making his comparison. 2291

A. "Inmusical" is simply a variant form of the same word and neither one or the other can be identified as being definitely British or American. I know of no reason for classifying it as either one or the other.

x Q. 98. Attention is called to the fact that "inmusical" is defined in Webster's Condensed Dictionary, as "not harmonious, unmusical," but the word "unmusical" does not appear in the dictionary. 2292

MR. HALE: The statement of counsel is objected to as incompetent, irrelevant and immaterial, because the book referred to is not in issue in this case.

MR. CARROLL: The book however is in evidence and speaks for itself.

2293

C. O. Sylvester Mawson—Cross.

x Q. 99. How do you account for that?

MR. HALE: Objected to as incompetent, irrelevant and immaterial and because a witness is not called upon to account for anything in a book concerning which he has stated he had nothing whatever to do, also as calling for a mere conclusion.

2294 A. I can offer no opinion on a book of which I know nothing about the preparation, but it is possibly an oversight.

x Q. 100. You were for many years in India were you not? A. I was.

x Q. 101. Do you know when the East India Company ceased coining money?

MR. HALE: Objected to as irrelevant and immaterial.

2295 A. Off-hand, I think about 1860 or 1865, I am not quite certain.

x Q. 102. It was soon after the India Mutiny of 1859? A. Soon after, I cannot recall the exact date.

x Q. 103. Can you recall the date approximately?

MR. HALE: Same objection.

A. Somewhere in the early sixties.

2 '96 x Q. 103. That is near enough. The following definition appears in Webster's Condensed Dictionary on page 500, "rupee, the silver rupee coined by the East Indian Company at Calcutta, valued at nearly 50¢." Would you consider that an accurate up-to-date definition of the word "rupee."

MR. HALE: Objected to as incompetent, irrelevant and immaterial and as calling for a conclusion and opinion of the witness, and

C. O. Sylvester Mawson—Cross.

2297

further because the book referred to by counsel is not in issue.

A. It is not strictly correct.

x Q. 104. How do you spell the word "seathe"?

MR. HALE: Objected to as irrelevant and immaterial.

A. It is spelled in two ways, both of which are used more or less interchangeably even in England. Some English dictionaries for instance will give "scath" while others will give it "scathe." 2298

x Q. 105. Is the latter the more approved American form?

MR. HALE: Objected to as incompetent and irrelevant and because the book referred to by counsel is not in issue.

A. I cannot reply without actual reference to the dictionary. 2299

x Q. 106. You think then that both forms are used interchangeably with equal frequency in both countries?

MR. HALE: Objected to as irrelevant and immaterial.

A. I think that "scath" is the more usual American form.

x Q. 107. How do you spell the word "sussell, a clipping of metal made from various mechanical operations"? 2300

MR. HALE: Objected to as irrelevant and immaterial, and because the witness has not used that word in making his comparisons with defendant's dictionary, and further because it does not appear that there is an established and variant form of English and American spelling of that word.

2301

C. O. Sylvester Mawson—Cross.

A. I am not familiar with the word.

x Q. 108. On your direct testimony I believe you denounced giving as nouns a combination of nouns, such as "Adam's Ale," etc., did you not?

A. When "Adam's Ale" is written as a phrase and not hyphenated, I object to its being classed as a noun.

2302

x Q. 109. You think then that such words should be given either with the hyphen or should be defined as sub-headings under the noun, is that correct? A. That is so.

x Q. 110. You would not then approve of the phrase "Seidlitz Powders," which appears in Webster's Condensed Dictionary on page 518 with a hyphen?

2303

MR. HALE: Objected to as incompetent, irrelevant and immaterial and as calling for the mere opinion of the witness and because the dictionary referred to by counsel in his question is not in issue in this case.

MR. CARROLL: The dictionary in question has been widely sold in competition with defendant's dictionary, and this witness has expressed a decided opinion and in fact a condemnation of defendant's book upon that particular point.

2304

MR. HALE: The question is further objected to as incorrectly stating the contents of Webster's Condensed Dictionary which does not designate that phrase as a noun.

A. Webster's Condensed Dictionary bears out my contention. Seidlitz Powders is given but it is not characterized as a noun, but it is written down as a phrase.

x Q. 111. Then the real fault you have found with such a term is the characterization of it as a noun.

C. O. Sylvester Mawson—Cross.

2305

MR. HALE: Objected to upon the ground that the witness has not found fault with anything, but has merely pointed out an erroneous statement.

A. An un-hyphenated phrase cannot correctly be classified as a noun.

x Q. 112. Is there such a double consonant in Latin as "th"?

2306

MR. HALE: Objected to as irrelevant and immaterial and further because the witness has not qualified as a Latin scholar.

MR. CARROLL: Any general student of lexicography who is not familiar with the Latin and Greek alphabet would not claim any great distinction.

A. "Th" does occur in Latin but is from the Greek "theta."

2307

x Q. 113. If it does occur in the Latin, is it not really stolen from the Greek and used to express a Greek sound?

MR. HALE: Objected to as incompetent, irrelevant and immaterial.

A. It is derived from the Greek.

x Q. 114. Do you know when the book which you have referred to as Price's book was written? A. Approximately 1899.

2308

x Q. 115. Did you make a careful comparison of that book with any of the editions of Webster's dictionaries? A. With the 1847 edition, yes.

x Q. 116. Did you find any similarity between the books? A. None, but what one would expect to find in comparing any two English dictionaries, and less in Webster's than in any other English dictionary with which I compared it.

x Q. 117. Is there any comparison of the Price

2309

C. O. Sylvester Mawson—Cross.

books with any edition of Webster's dictionary included in your exhibits?

2310

MR. HALE: Objected to as incompetent, because the exhibit is in evidence and will speak for itself, and further because it appears from the exhibits that have been offered that defendant's book has approximately 98% of its matter identical with Price's dictionary, and the defendant's book as appears from the exhibit is carefully compared with Webster's 1847 edition.

A. In so far as it appears in the exhibit, yes.

2311

x Q. 118. In your list of words which you have read into the record, under the heading "Orthography," you have marked with a dagger a number of words which do not appear at all in the Webster's of 1847. How can you therefore give any preferred Webster form for the spelling of these words? A. For a very good reason, the red dagger indicates that form, not that word, does not appear in Webster's of 1847. Taking for instance the word "axe," in the Webster's of 1847 we find only "ax" showing that Webster himself did not countenance the spelling "axe."

2312

x Q. 119. In every case, therefore, where the dagger does not appear both forms were given in the original Webster's of 1847? A. That is so.

x Q. 120. Of the two forms given however, Webster preferred the shorter form, and that preferred form is given in the third column? A. That is correct.

x Q. 121. None of the words given in this list then were entirely absent from the Webster's of 1847 were they? A. No.

x Q. 122. Did you in each instance take the so-called preferred Webster form from the Webster of 1847? A. The Webster's preferred form

C. O. Sylvester Mawson—Cross.

2313

means the form as preferred by Noah Webster in the edition of 1847, and which are still retained in the Webster's New International Dictionary and other leading American dictionaries.

x Q. 123. Have you a copy of the 189 words which you have referred to as appearing in the defendant's dictionary in the Webster form of spelling, as these same words appear in the Price book in the so-called form of spelling?

2314

MR. HALE: Objected to upon the ground that the witness has not testified that the words referred to appear in the Webster form of spelling, but simply that the spelling of Price's dictionary has been changed.

A. As these forms are clearly marked in defendant's dictionary, I saw no reason for making a special list.

x Q. 124. How are they so marked? A. By a small blue underline. 2315

x Q. 125. Doesn't the defendant's book in nearly every instance give both forms? A. No, in numerous instances it does not. It only gives one and that commonly British.

x Q. 126. In many instances however they give both forms, do they not? A. In certain instances where both forms are given the reference is made to what I call the British form, under which the definition will be placed. I refer in this connection to the list previously given headed "Cross References." 2316

x Q. 127. Do you know the date that Cassell's dictionary was written? A. The edition I used is dated 1891 as indicated by complainant's Parallel Column Exhibit, page 1.

x Q. 128. And the edition of Chamber's 20th Century Dictionary which you used was of 1901? A. Yes.

2317

C. O. Sylvester Mawson—Cross.

x Q. 129. And the edition of Ogilvie's Imperial Dictionary was 1883? A. Yes.

x Q. 130. You have stated that Webster's Dictionary has for many years been an accepted authority in England, is that correct? A. It is correct.

2318

x Q. 131. Is it not probably true that these three dictionaries which we have referred to as Chamber's Cassell's and Ogilvie's, were very largely taken from one of the editions of Webster's Dictionary?

MR. HALE: Objected to as incompetent, irrelevant and immaterial and calling for a mere guess and surmise upon the part of the witness as to what is probable.

A. I don't think so, for the reasons that will be shown in my exhibit.

2319

x Q. 132. How do you account for the remarkable similarity between the three books mentioned and Webster's 1847?

MR. HALE: Objected to as incorrectly stating the fact, to wit, that there is a remarkable similarity between the three books and the Webster's 1847.

A. That question has been pretty fully answered in my direct testimony.

2320

x Q. 134. You think then there was no connection whatever between the Webster's 1847 and these three dictionaries? A. To what three dictionaries do you refer?

x Q. 135. To Cassell's, Chamber's and Ogilvie's.

MR. HALE: The question is objected to as calling for matter not shown to be within the knowledge of the witness and for his mere opinion not based upon the knowledge of any relevant facts.

C. O. Sylvester Mawson—Cross.

2321

A. As regards Chamber's and Cassell's, from the close comparison I have made in my exhibit, I see no reason for supposing that they were in any way connected with Webster's. As for the edition of Ogilvie's Imperial Dictionary which I consulted, the amount of differences between that work and Webster's Unabridged of 1847 are so great that I cannot determine if any but legitimate use has been made of Webster's dictionary. Of course, 2322
in the preparation of dictionaries, especially large dictionaries, many works of reference are necessarily consulted, but as a rule no particular book is depended upon. I think this applies to Ogilvie's dictionary, as well as to the other books.

x Q. 136. Does it not appear upon the title page of the Ogilvie's book that it was based upon Webster's?

MR. HALE: Objected to as incompetent, irrelevant and immaterial as the book will 2323
speak for itself, if produced, and further because statements upon the title page of a book do not prove themselves, and if the statement should appear it would be no evidence of the fact.

A. I believe such a statement was made on the very first edition of Ogilvie's dictionary, but as I have not compared that first edition with Webster's unabridged, I do not know how correct the 2324
statement is.

x Q. 137. Do you not know as a matter of fact that Ogilvie used a Webster's very largely in preparing the major portion of his books?

MR. HALE: Objected to as incompetent, irrelevant and immaterial, as the defendant's books have been in no way connected with Ogilvie's book, and the witness is requested to confine his answer to the ques-

2325

C. O. Sylvester Mawson—Cross.

tion as asked which calls for his knowledge of facts rather than his opinions.

MR. CARROLL: Complainant's counsel is requested not to indicate to witness how he wishes the question answered.

A. I do not know from actual knowledge to what extent Ogilvie used Webster's in the preparation
2326 of his dictionary.

x Q. 138. What is your best belief in the matter though?

MR. HALE: The same objection, also what edition of Ogilvie's dictionary is counsel referring to in his question?

MR. CARROLL: The first edition of Ogilvie's and subsequent ones which were admittedly based upon said first edition.

2327

MR. HALE: The question is objected to as calling for witness's mere belief instead of facts out of his knowledge and complainant is not bound by a mere statement of witness's belief unless the facts upon which it is founded are stated.

A. Ogilvie mentioned Webster's name on the title page of his edition but as to how far he was justified in making this statement I cannot answer definitely without a careful examination of that
2328 book alongside of the Webster.

x Q. 139. What is your best belief? Did Ogilvie use Webster's or did he not? A. I offer no opinion unless I can speak from actual knowledge.

x Q. 140. You are asked to give your best belief.

MR. HALE: The question is objected to as having been fully answered.

A. My examination——

C. O. Sylvester Mawson—Cross.

2329

x Q. 141. Please do not dodge the question. A. My examination of any edition of Ogilvie's has not gone further back than the edition of 1883, to which I have referred in my exhibit, and so far as that particular edition is concerned, it is impossible for me to say whether certain similarities that I have found with Webster were taken by Ogilvie from Webster's Unabridged or whether they are the result of the use of a common source, as I have found many instances where I could trace particular definitions back to Johnson's, for example. I am, therefore, naturally cautious in saying to what extent Ogilvie used Webster's. 2330

x Q. 142. There are of course many words contained in Ogilvie's book, Cassell's book and Chambers' book, which do not appear at all in Webster's 1847 edition, is that not so? A. It is so.

x Q. 143. There are also many words in defendant's book which do not appear in Webster's of 1847, but which do appear in one or the other of the three books named? A. That is so. 2331

x Q. 144. Therefore, it is possible, is it not, that words contained in the three books, Ogilvie's, Chamber's and Cassell's and also contained in defendant's book and are contained in the Webster's of 1847, they may all have been taken from the 1847 edition?

MR. HALE: Objected to as incompetent, irrelevant and immaterial, and calling for a mere surmise of the witness as to what is possible. The witness's opinion of a possibility is not evidence in any sense. I object to the witness answering a question calling for his opinion of what is possible, as obviously incompetent. 2332

A. My examination of these books proves the contrary, for the reason that the dissimilarities

2333

C. O. Sylvester Mawson—Cross.

between the books you named and the Webster's book of 1847 are too considerable to allow of such a surmise being considered.

- x Q. 145 Is it your opinion then that anything which is identical in Ogilvie's, Cassell's and Chamber's and defendant's books and also identical with the same matter in Webster's 1847, cannot possibly be taken from Webster's 1847? A.
- 2334 It is my opinion that it was not so. For instance, had Webster's edition of 1847 been the principal source of Cassell's and Chamber's dictionaries or any other dictionary mentioned in my exhibit, I would have expected to have seen greater resemblances and fewer dissimilarities. This I did not find and I am driven to the conclusion, wish-
in to make an absolutely fair statement, as shown and proved by my figures that no unfair use of Webster's Unabridged Dictionary was
- 2335 made by any of the publishers of these dictionaries.

x Q. 146. What do you mean by "unfair use"? A. By "unfair use" I mean the appropriating of entire definition after definition. By fair use I would mean the consulting of all standard works and making an independent definition, the same as we do in the preparation of the New International.

- x Q. 147. You think then that the editors of the three dictionaries named, Ogilvie's, Chamber's
- 2336 and Cassell's, made fair use of Webster's Unabridged Dictionary?

MR. HALE: Objected to as calling upon the witness's opinion as to what persons long ago did in the preparing of dictionaries which have been published for a long period of time, and on which the witness has had no personal information or knowledge. Also as assuming that the editors in question made any use, a fact which has not yet been proved.

A. There is no evidence for me to believe that any unfair use was made of Webster's Unabridged Dictionary of 1847, but it would be fair to assume that the latest edition of Webster's, not the unabridged would be consulted at the time of making the respective dictionaries.

x Q. 148. The Chamber's and Cassell's books are fairly small books, are they not? A. They are small in bulk but contain considerably more words than either Price's dictionary or defendant's dictionary. 2338

x Q. 149. The definitions in them are necessarily condensed, I suppose. A. No more condensed than they are in the defendant's dictionary.

x Q. 150. More condensed than they are in the ordinary unabridged dictionaries, is that not so? A. Than in an unabridged dictionary, naturally.

x Q. 151. So that many of the definitions in Cassell's and in Chamber's may have been paraphrases from the Webster's of 1847, or some other later Webster, even if they are not identical, is that not so? 2339

MR. HALE: Objected to as incompetent, irrelevant and immaterial, and as going into the domain of pure surmise and conjecture and as asking the witness's opinion, and complainant is not bound by the witness's opinion upon such a matter.

MR. CARROLL: Complainant has attempted to qualify this witness as an expert and his opinion, even though it may not be accepted by defendant, is nevertheless binding upon complainant. 2340

MR. HALE: There is a difference between the opinion of a witness based upon facts, stated and exhibited, and the mere opinion of a witness, however expert and well qualified, as to matter of fact on which he has no knowledge. Also objected to as irrelevant and immaterial, because de-

2341

C. O. Sylvester Mawson—Cross.

defendant alleges that his book is based upon Webster's, and therefore denies that it is based upon Cassell's or Chamber's in any respect.

2342

A. Some of the definitions in Chamber's and Cassell's may have been wholly or in part paraphrases from the latest edition of Webster's at the time of the preparation of the three books, but since you ask for my opinion, I do not think for one moment that Webster's Unabridged of 1847 could even have been consulted.

x Q. 152. The definitions in Cassell's, Chamber's and defendant's book are approximately of the same length are they not in most instances? A. Approximately, yes.

2343

x Q. 153. So that you would expect to find many more definitions in defendant's book practically identical with definitions in Cassell's and Chamber's than you would identical in an unabridged Webster's, would you not?

MR. HALE: Objected to as irrelevant and immaterial, and because in conflict with defendant's contention, which is that this book is largely identical with Webster's Edition of 1847.

2344

A. It is really asking me a question of opinion, but unless unfair use had been made of the shorter dictionaries, I see no reason for supposing that such similarity as has been shown in my exhibits should exist.

x Q. 154. Do you mean to say that you would not expect to find more definitions practically identical in two abridged dictionaries than you would in an abridged book and an unabridged book? A. I think pages 30 and 31 of complainant's parallel column exhibit in part answers your question. This shows and explains why there is a certain similarity between all English dictionaries.

C. O. Sylvester Mawson—Cross.

2345

x Q. 155. (To stenographer.) Will you please repeat the question?

MR. HALE: The repetition of the question is objected to on the ground that it is already answered.

(Question read.) A. Over and above the percentage shown in my exhibit I would not.

x Q. 156. Absolutely irrespective of your exhibit will you give a straight answer to the question. Would you not expect to find more definitions practically identical in two abridged dictionaries than in an unabridged and an abridged dictionary? 2346

MR. HALE: Objected to as having been fully answered and also as irrelevant and immaterial.

A. I would expect the unabridged books to contain the whole of the senses and a large percentage of the actual words found in the small dictionaries. 2347

x Q. 157. (To stenographer.) Will you read the question again? (Question read.) A. Not necessarily in regard to the actual words used.

x Q. 158. Why not? A. It seems more reasonable there would be found a greater similarity between an unabridged book and the book on which it was based than between small dictionaries prepared independently. 2348

x Q. But take two small books both based upon a large book, would you not expect to find many more definitions in the small books practically identical than definitions identical in the small book and the book upon which it was based? A. Assuming that the small books are positively based upon a given larger work, I would expect to see a great similarity between the two books themselves, and of course the book on which it was based.

2349

C. O. Sylvester Mawson—Cross.

x Q. 159. Would you not expect to find greater similarity between the abridged works, than between the abridged books and the unabridged book on which it is assumed to be based?

MR. HALE: Objected to as incompetent, irrelevant and immaterial, and asking the witness to guess. The witness is not required to guess.

2350

A. No, I think that if two books were independently based on a larger work there would be a marked similarity between the three of them.

x Q. 160. Would not you expect to find a greater identity between the short definitions of the abridged books than between the short definitions of the abridged books and the long definitions of the unabridged book? A. Not necessarily so, for the reason that in an unabridged book a brief definition is first of all given and may, or may not, be amplified, as in our new International Dictionary. In making an abridgement of such a work the shortened form which comes at the beginning in the larger dictionary would likely be taken and if the two books were independently based on that larger work they would take the brief definition, omitting the other. There would be that striking similarity to which I have referred, for that reason.

2351

x Q. 161. That striking similarity between the two small books? A. Between the two small books and the dictionary on which they were based.

2352

x Q. 162. The two small books would have practically the same text then throughout, would they not? A. That would depend largely on the idiosyncrasy of the particular editor and the market for which the work was intended.

x Q. 163. Assuming that the editors of each of the small books were normal men, having no more idiosyncrasy than the average editor, would not the two books be probably identical?

C. O. Sylvester Mawson—Cross.

2353

MR. HALE: This question and the further continuing of this line of examination is objected to as incompetent, irrelevant and immaterial and highly speculative.

A. If based upon the same unabridged work there would be a great amount of identity between them.

x Q. 164. Do you know how many words or terms were defined in Johnson's? A. Not more than 12,000, if as many. I don't recollect exactly.

2354

x Q. 165. How did you compute the percentages which you have given in these various exhibits, namely, 46%, 76½%, 45%, etc.? A. By an actual count of the identical words used in the respective dictionaries in defendant's book.

x Q. 166. So that if there were 100 words in the long definition of Webster's unabridged and only 45% of those words were taken in the abridged dictionary of the defendant, you then came to the conclusion that 45% of Webster's had been taken in defendant's book.

2355

MR. HALE: Objected to as misrepresenting witness's testimony.

A. You misunderstood my answer, I made no count whatsoever of the words that were not taken. I merely counted the words that were identical. I didn't say they were taken, but they were identical in corresponding definitions.

x Q. 169. What would the 45% be then? A. By a count of the words used in defendant's dictionary and then counting the whole of the words which are identical in Webster's Unabridged, only 45% of defendant's dictionary can be accounted for in this manner, assuming that Webster's had been used at all.

2356

x Q. 170. That is all.

(SIGNATURE WAIVED.)

DEPOSITION CLOSED.

2357

IN THE
DISTRICT COURT OF THE UNITED STATES
SOUTHERN DISTRICT OF NEW YORK.

G. & C. MERRIAM COMPANY,
Complainant,

vs.

Equity 8-161

2358

CUPPLES & LEON CO.,
Defendant.

G. & C. MERRIAM COMPANY,
Complainant,

vs.

Equity 8-162

2359 THE SYNDICATE PUBLISHING COM-
PANY,
Defendant.

Depositions on behalf of complainant, in re-
buttal, taken by consent before Kate S. Holmes,
a Notary Public duly authorized to administer
oaths, at the office of Reilly & Britton Company,
1006 South Michigan Avenue, Chicago, Illinois, on
the 12th day of July, 1912, at 11.30 o'clock A. M.
Present:

MR. WILLIAM B. HALE, counsel for com-
plainant;

GOULD & WILKIE, solicitors for defendant
CUPPLES & LEON CO., MR. LAUREN CAR-
ROLL, of counsel;

STRONG & CADWALADER, solicitors for The
Syndicate Publishing Company, Mr.
LAUREN CARROLL of counsel.

Sumner C. Britton—Direct.

2361

STIPULATION.

It is stipulated between counsel for the respective parties that the depositions of witnesses produced and examined before Kate S. Holmes, may be taken stenographically and subsequently reduced to typewriting by her or by a competent typewriter operator known by Kate S. Holmes, and that the signatures of the witnesses so produced and examined are waived.

2362

SUMNER C. BRITTON, a witness called on behalf of the complainant, having first been duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. State your full name, age, residence and occupation? A. Sumner C. Britton; forty-six years old; publisher at 1006 South Michigan Avenue, Chicago. 2363

Q. 2. Are you a member of the firm or company known as Reilly & Britton Company? A. I am President of the company.

Q. 3. Does that company handle a book called "Webster's Condensed Dictionary"? A. Yes, sir.

Q. 4. How long has it been handling that book? A. About seven years, to the best of my recollection. 2364

Q. 5. Is the book published by your concern, or if not, by whom is it published? A. It is manufactured for our account by the Merriam Company.

Q. 6. Is the Merriam Company the owner of that book? A. Yes.

Q. 7. And you handle it under an arrangement with them? A. We do.

Q. 8. Is that arrangement an oral or written arrangement? A. Oral.

2365

Sumner C. Britton—Direct.

Q. 9. Will you please state the general terms of it? A. They furnish the book to us at a given price. The books are shipped to us on our order from time to time.

Q. 10. Is there anything in that arrangement giving the Reilly & Britton Company any exclusive rights in that book, if so, what is it? A. They do not sell it to any other customer.

2366 Q. 11. When the Merriam Company, itself, desires a copy of the "Webster's Condensed Dictionary," how do they get it? A. They order it and the same is billed to them at a price agreed upon.

Q. 12. In other words, if they wish any copies of that book they first go to you? A. They do.

Q. 13. Since the making of that arrangement has the Reilly & Britton Company exploited and sold "Webster's Condensed Dictionary" by means of the newspaper coupon plan? A. Yes.

2367 Q. 14. Did the Merriam Company have anything to do with that plan or distribution? A. Nothing whatever.

Q. 15. When did the Reilly & Britton Company first put out this book through newspapers upon that plan? A. The first contract was with the Boston American. The arrangement was entered into late in July of the year 1910, the first advertisements of which appeared in the Boston American approximately August 29th, 1910. The first shipment of books to the Boston American was made on August 20, 1910.

2368 Q. 16. What did you personally have to do with introducing this book to the Boston American, and with their advertising campaign, if anything? A. I went to Boston to see them after having corresponded with them. I submitted samples and prices and supplied them with data from which to build their advertising.

Q. 17. Did you see that advertising when it ap-

peared in the Boston American, and are you familiar with the nature of it? A. I am.

Q. 18. Have you any sample copies of it which you can now produce? A. I have not, for the reason that in putting on various other deals over the country I used those copies that I had; but undoubtedly they are a part of the files of the Boston American.

Q. 19. I presume you are aware that The Syndicate Publishing Company has exploited and sold through a newspaper coupon scheme, a dictionary which they call "Webster's New Standard Dictionary," and sometimes "Webster's New Illustrated Dictionary," are you not? A. I am so informed. 2370

Q. 20. Do you know about when the campaign of that company commenced? A. To the best of my knowledge in the early part of the year 1911.

Q. 21. Your company was, then, first in this field? A. To my best knowledge. 2371

Q. 22. Did you observe any of the newspaper advertising of The Syndicate Publishing Company issued in connection with this plan of campaign through the newspapers? A. Very often.

Q. 23. What did you observe in connection therewith and as compared with your advertising? A. The first advertisements that I saw were those of the Pittsburg Post, and I was impressed with the fact that the plan and scope of their advertising was so similar to the advertising that was done on the Boston American, that were the two sets of advertisements not together, one could hardly tell but what the same copy was used. 2372

MR. CARROLL: I object to this answer and move that it be stricken from the record as a conclusion of the witness, the advertisements speaking for themselves, and the advertisements not being produced; and as incompetent, irrelevant and immaterial.

2373

Sumner C. Britton—Direct.

Q. 24. Did you observe any advertisements of the defendant, The Syndicate Publishing Company's dictionary in the Pittsburgh Post which were closely similar and in part identical with advertisements of your book which had previously appeared in the Boston American? A. One in particular, a picture of Uncle Sam; that originated with the Boston American.

2374

Q. 25. Do you recall having observed other cuts, phrases and catch lines that were similar to your advertisements in the Boston American?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial, the advertisements themselves being the only competent evidence as to their contents.

MR. HALE: The witness has explained the absence of such advertisements. An effort will be made to produce them before complainant's rebuttal proofs are closed.

2375

A. At the time I noticed many.

Q. 26. Can you recall from memory what they were? A. Well, the phrase "Bound like a Bible."

Q. 27. Was that a phrase of your origination, or what is the fact in regard to it? A. I have used that phrase in connection with dictionaries for more than ten years.

2376

Q. 28. Is that phrase more or less common to the trade in connection with books bound in limp leather like an Oxford Bible? A. It is.

Q. 29. Was the Pittsburg Post campaign of The Syndicate Publishing Company's book the first that you noticed in connection with that book? A. The first that came under my observation.

Q. 30. Are you acquainted with Mr. J. F. Murphy? A. I am.

Q. 31. What connection has he with your company, and has he had in the last few years? A. He

has sold dictionaries on commission for account of the Reilly & Britton Company.

Q. 32. He is an employe then, of the Reilly & Britton Company? A. No.

Q. 33. Well, how would you describe it? A. Mr. Murphy, being a circulation promoter, agreed to specify our dictionary in connection with his work, the book to be billed to the newspaper at the price agreed upon between him and the newspaper, the difference in the price the newspaper paid and that which we made to him to be paid to him as a commission; otherwise no connection whatever. 2378

Q. 34. Did Mr. Murphy introduce the "Webster's Condensed Dictionary" to various newspapers under that arrangement? A. He did.

Q. 35. And it was all done under the contract with the Reilly & Britton Company? This arrangement with the Reilly & Britton Company? A. Yes, sir.

Q. 36. And among others did he, under this arrangement, introduce "Webster's Condensed Dictionary" to the St. Louis Republic? A. He did. 2379

Q. 37. And Reilly & Britton Company furnished these books for the St. Louis Republic? A. Yes, sir.

Q. 38. And these books were the books Reilly & Britton Company purchased from the Merriam Company under the arrangement first referred to by you, is that correct? A. They were.

Q. 39. Please give the trade description of the binding in which "Webster's Condensed Dictionary" was offered to the newspapers by Mr. Murphy? A. I couldn't say, he being his own maker of advertising. 2380

Q. 40. I think you misunderstood the question. I wish to know how the binding of "Webster's Condensed Dictionary," the limp leather one, would be described to the trade? A. It was a seal grain. The trade term is known as seal grain Morocco.

MR. HALE: I think that is all.

2381

Sumner C. Britton—Cross.

CROSS-EXAMINATION by Mr. Carroll:

x Q. 41. You stated that the present arrangement which Reilly & Britton Company have with the Merriam Company with reference to "Webster's Condensed Dictionary" was oral? A. I did.

x Q. 42. When was that arrangement made? A. At the time that we asked them to make a dictionary for us.

2382 x Q. 43. Between whom was it made? A. Particularly with Mr. Washburn, but I think all the other directors of the company were present at the interview.

x Q. 44. Who was present on your side? A. Mr. Reilly, probably. It is some time ago. It is more than likely he was.

x Q. 45. You personally were not present? A. I was present.

2383 x Q. 46. You were present, and possibly Mr. Reilly? A. And possibly Mr. Reilly.

x Q. 47. When was it? A. I said a while ago I thought approximately seven years ago we made that deal. We had prior deals to that, however. That was one reason why we didn't have a written arrangement, we didn't need written instruments between us.

2384 x Q. 48. Was there ever any correspondence concerning this contract? A. Probably, affecting some variations of prices and binding from time to time.

x Q. 49. Was there never any letter of any kind embodying the terms of the agreement? A. No formal contract was ever entered into. We have written them, of course, many times in relation to this dictionary business.

x Q. 50. I repeat my question: Was there never any letter written concerning the terms of that agreement? A. Not that I know of.

x Q. 51. You have been going on for seven years under an oral agreement made between you and

the Merriam Company? A. Yes. We deal nicely together; we have never had a word for a longer connection than that.

x Q. 52. During the whole of that seven years has the arrangement always been exactly the same? A. No, I say we may have had correspondence with them in reference to changes of binding and prices.

x Q. 53. Precisely how did the arrangement 2386 work? Did they alaways ship all books to you direct? A. They manufactured their books at a certain plant.

x Q. 54. Where was that plant? A. In Chicago. Want the name? Hill Binding Company.

x Q. 55. Did they manufacture all of them in Chicago? A. All of the "Condensed" dictionaries. We handle other Webster's dictionaries besides the "Condensed."

x Q. 56. Do the G. & C. Merriam Company own 2387 the Hill plant? A. Oh, no, they contract for the work.

x Q. 57. The G. & C. Merriam Company still own the plates of the dictionary? A. Yes.

x Q. 58. Have you a large stock of these dictionaries on hand at the present time? A. A large stock of the book in various stages of manufacture are always in the hands of the manufacturer; we order them in such quantities from time to time as we want them.

x Q. 59. Are they then delivered to you here at 2388 this office? A. Not always; sometimes they are f.o.b. cars.

x Q. 60. What is the usual practice? A. The usual practice is f.o.b. cars. They ship on our order.

x Q. 61. As a rule then they get the order and they ship right out from the factory? A. They ship from the factory.

x Q. 62. Who receives the money? A. The Mer-

2389

Sumner C. Britton—Cross.

riam Company bill the books to us on the showing of the bindery that they have shipped on our order, the books.

x Q. 63. And you collect? A. We collect.

MR. HALE: From the customer, you mean?

A. From customers.

2390

Mr. Carroll:

Q. 64. What other Webster's dictionaries do you handle? A. Webster's Unabridged Dictionary.

x Q. 65. What edition? A. The edition of 1903.

x Q. 66. Have you a copy of that book here? A. We have.

x Q. 67. May I see it?

2391

MR. CARROLL: Witness produces a copy of the book mentioned above, with the statement that this is the same book as has already been introduced in evidence in connection with the deposition of Max Hesslein, a witness called by defendant.

x Q. 68. Is this one of the regular G. & C. Merriam Company books? A. We sell that for their account only. We are only agents for the sale of it.

2392

x Q. 69. Just how are you agents for the sale of it? A. The book belongs to them, they manufacture it and we are their exclusive selling agents for that book.

x Q. 70. Where is that book manufactured? A. That is manufactured at Albany, New York, that edition.

x Q. 71. Your arrangement about this book then, is essentially different from the arrangement with reference to the "Condensed" dictionary? A. Absolutely it is.

x Q. 72. Do you get a commission on each book that you sell? A. Yes, sir.

x Q. 73. Do they sell any books through their own agents? A. No, sir, not of this edition.

x Q. 74. Are you familiar with this book? A. I was brought up on it.

x Q. 75. I see that it bears on the reverse side of the title page the copyright notice dated 1864.

A. Yes, sir.

2394

x Q. 76. Is this not substantially the same book originally published by the G. & C. Merriam Company in 1864? A. With revisions, as also noted on the reverse of the title page when such revisions were made.

x Q. 77. Is it not printed from the same plates? A. Not at all.

x Q. 78. Do you know that of your own knowledge? A. I do know that of my own knowledge.

x Q. 79. When were the plates from which it is printed made? A. I am not in position to say because that isn't a part of my knowledge. In other words, the Merriam Company would know better than I.

2395

x Q. 80. How do you know they are not printed from the same plates? A. Because with each revision new plates are necessarily made.

x Q. 81. You mean to say that each time the Merriam Company revises any one of their dictionaries they make entirely a new set of plates?

A. Not necessarily.

2396

x Q. 82. Well then, why did you make your former statement? A. For the reason that they might have made a new set of plates on this whole book, and probably did, in 1903.

x Q. 83. You really don't know whether they did or not? A. I don't know.

x Q. 84. So really, as far as you know, they may be the same plates as the 1864 edition? A. Without I appeal to my knowledge as a publisher, and

experience as a publisher, that would teach me that it would be absurd.

x Q. 85. What was your arrangement with the G. & C. Merriam Company with reference to the "Condensed" dictionary before the conference which you have stated was approximately seven years ago, at which you made the present arrangement? A. Nothing as to the "Condensed" before we made the arrangement, except that we asked them to make it for us. Prior to that time we were their exclusive selling agents since 1903 for the sale of Webster's Unabridged Dictionary.

2398

x Q. 86. Prior to 1903 did you handle any of Webster's dictionaries at all?

MR. HALE: Objected to as incompetent, and immaterial and not proper cross-examination.

2399 A. Yes, sir.

x Q. 87. What dictionaries were they? A. Webster's Unabridged, when I was formerly connected with another company we handled the Unabridged dictionary; after we started in business why we made a contract with Merriam. That was an older edition.

x Q. 88. What was the name of that company? A. The George M. Hill Company.

x Q. 89. Did you ever handle any other Webster's dictionary? A. Prior to that we certainly did handle some so-called Webster's dictionaries.

2400

x Q. 90. Why do you say "so-called"? A. Because it is a fact that they were photographed reprints of the old 1847 dictionaries with some outside revisions.

x Q. 91. Then if they were a reprint of the 1847 edition is it a Webster's dictionary? A. It is so far as the plates are concerned; they were original Webster plates, but not insofar as they relate

to plates that have been inserted for the purpose of putting new words in an old obsolete book.

x Q. 92. Still you sold the book as a regular Webster's dictionary, did you not? A. Sold it for what appeared on the back bone of it. A matter of title. It has long since passed from my mind.

x Q. 93. Have you ever sold any other Webster's dictionaries? A. None.

x Q. 94. Were you ever connected with the Madison Book Company? A. I was. 2402

x Q. 95. In that connection did you sell any other Webster's dictionaries? A. I sold then a so-called Webster's dictionary.

x Q. 96. Did you at that time refer to it always as a so-called Webster's dictionary? A. I did not.

x Q. 97. Why have you adopted the old phraseology? A. Because at that time the books that we sold were not made by us, but were made by another concern and we simply sold them; bought the dictionaries and resold them. 2403

MR. HALE: Complainant's counsel has allowed the cross-examination to take rather a wide scope, not wishing to object unless necessary, but at this point complainant's counsel objects to this line of examination as incompetent, irrelevant and immaterial, as not proper cross-examination, and, therefore, an attempt by defendant to introduce new evidence in chief in aid of its defense after its time for taking testimony has closed and its defense has been rested. 2404

x Q. 98. Isn't that precisely what you say your arrangement is with the G. & C. Merriam Company to-day in reference to the "Condensed" dictionary? A. The difference would be in circumstances, if any.

x Q. 99. In what circumstances? A. The difference being that at no time since we have sold the

2405

Sumner C. Britton—Cross.

genuine Webster's dictionary have we sold anything that purported to be a Webster's dictionary.

x Q. 100. Do you consider the Webster's Unabridged dictionary a genuine Webster's dictionary?

2406

MR. HALE: Objected to upon the grounds last stated, and the witness is requested to suspend his answer until directed by the Court to answer this question. I shall make a similar request to any further questions along this line.

MR. CARROLL: The Examiner is requested to certify this to the Court.

MR. HALE: The witness suspends answer as requested.

2407

MR. CARROLL: I ask the Examiner to certify this question to the Court for the purpose of ruling upon the propriety of the question, and for the purpose of directing this witness to answer the same.

x Q. 101. What was the name of the Webster's dictionary which you say you sold through the Madison Book Company?

MR. HALE: Same objection and same request to the witness to suspend his answer until the propriety of this line of examination has been ruled upon by the Court.

2408

x Q. 102. How do you advertise the Webster's Unabridged dictionary? A. We advertise ourselves as exclusive selling agents. The book is already well advertised and we don't have anything to do with that.

x Q. 103. Since you have been selling this book have you ever sold any other Webster's dictionary not published by the G. & C. Merriam Company?

MR. HALE: The same objection and same

request to the witness. And in explanation of this request complainant's counsel states that he is taking his rebuttal testimony and purposes and intends to keep it strictly such, and he is not willing that defendant shall, by improper cross-examination, attempt to introduce new evidence in chief in aid of its defense. This witness was called and testified in chief solely in regard to the sale of the Webster's Condensed Dictionary, in rebuttal of the testimony of Mr. Swift, defendant's witness, as to the sale of that book through the newspapers; the cross-examination should be limited to matters referred to in the direct examination. 2410

x Q. 104. Who wrote the advertisements for the Boston American, which you have referred to? A. They were written very largely by the editorial department of the Boston American from the data supplied by me. 2411

x Q. 105. What was the nature of the Boston American's scheme? A. They offered to present to every one bringing a certain number of coupons cut consecutively from their daily issue, plus a certain sum, a "Condensed" dictionary.

x Q. 106. Are you sure that they used those words, "we offer to present"? A. No, the question didn't ask for any verbatim words used by the American. 2412

x Q. 107. Was not the Boston American's scheme really, in terms, an offer of the book at a reduced price? A. It was.

x Q. 108. Was not the great distinction between the scheme as put on by the Pittsburg Post and that as put on by the Boston American, the following: The Pittsburg Post advertised its dictionary as a gift to any one bringing six coupons, the 89 cents or 98 cents being called an expense

2413

Sumner C. Britton—Cross.

bonus, to cover necessary expenses of handling; whereas the Boston American simply advertised its dictionary as a two dollar dictionary offered for the reduced price of 98 cents, the decrease in price being given to any one bringing in six coupons cut?

2414

MR. HALE: The question is objected to as on its face asking for a distinction between two things as to which there is no distinction, except possibly in the words of description.

2415

MR. CARROLL: If counsel for complainant had spent many weeks in the circulation department of a newspaper he would immediately appreciate the very distinct psychological difference between the two methods of offering the books, and it was this very difference which made the Pittsburg Post's scheme so much more successful than that one which was adopted by the Boston American.

MR. HALE: Does counsel mean to suggest that the success of such schemes depends upon making the public think they are getting some which they do not get?

MR. CARROLL: The success of such schemes unquestionably depends upon every single word put into the advertising.

2416

MR. HALE: Counsel inquires where in the record the evidence will be found that the defendant, Pittsburg Post's distribution was a greater success than the Boston American's distribution of Reilly & Britton's Webster's Condensed Dictionary?

MR. CARROLL: A comparison of the advertisements which appeared in the Boston American when produced by counsel for complainant, with the advertisements subsequently used by the St. Louis Republic,

will show that those used in the St. Louis Republic contained the little "psychological kink" mentioned, and this, in itself, is sufficient proof that the change was considered an important one by the distributors of the "Condensed" dictionary.

Question 108 read.

A. The difference, to my mind, is that either plan would produce the same effect, practically, in the public mind. 2418

x Q. 109. Why did you adopt the other plan in St. Louis, then? A. I did not adopt it.

x Q. 110. Who did adopt it? A. Mr. Murphy ran his own campaign in St. Louis. We only ship books on orders and bill them and collect for them.

x Q. 111. Can you give a list of the cities in which you distributed the "Condensed" dictionary through the newspaper plan? A. I probably could, but why should I? 2419

x Q. 112. Did you ever sell the book through the newspapers in Pittsburg? A. I couldn't say. It appears to me that I had a dictionary deal on with the Dispatch, a number of years ago, but nothing similar to this plan.

x Q. 113. Do you remember approximately how long ago it was? A. Well, more than five years ago.

x Q. 114. Have you any idea how many books you sold? A. No, I couldn't state; it wasn't a large deal, I know that. 2420

x Q. 115. Probably less than 5,000? A. Probably less than 5,000.

x Q. 116. The "Uncle Sam" cut that you have spoken of, are you certain that that was used in the Pittsburg Post? A. That was my impression, when I first saw it.

x Q. 117. You haven't a copy of the Pittsburg Post, I presume, which contains it? A. No.

2421

Sumner C. Britton—Cross.

x Q.118. Is it not really a fact that the first time that this cut was used in connection with any of defendant's dictionaries, was when it was used by the New York American, the cut having been obtained from its allied paper, the Boston American?

2422

MR. HALE: Objected to as assuming facts as to the alliance of those papers which are not matters of record. Further objected to as calling for a fact obviously not within the knowledge of the witness, as to when the defendant first used a particular ad, as to which defendant has exact knowledge and this witness has not.

2423

MR. CARROLL: The question is made necessary by the fact that this witness has already testified as to the use of this ad, if he has no knowledge of it then his answer to that question should be stricken from the record.

MR. HALE: The question referred to the first use by defendant. The witness may know when he first saw it, but he may not know whether the first one he saw was the first use made by defendant.

2424

A. To the best of my knowledge and belief the first time I saw a reproduction of the Boston American, "Uncle Sam" picture was in connection with the Pittsburg Post.

Q. 119. You are not sure of that, however? A. I said, to the best of my knowledge and belief.

x Q. 120. Can you state the date when you believe you saw it in the Pittsburg Post?

MR. HALE: Objected to unless the witness can state it with some certainty and not as a mere guess, especially as the date of the Pittsburg Post campaign is already of record in this suit.

MR. CARROLL: The witness' whole testimony on this point is obviously a mere guess.

A. I can't answer accurately.

x Q. 121. Was it the month of April, 1911? A. It might have been, I couldn't say.

x Q. 122. Was it in the month of November, 1910? A. In 1910? It was not.

x Q. 123. Can you give any approximate fixing of the date, then, whatever? A. I should say early in the fore part of the year 1911. 2426

x Q. 124. When did you make your arrangement with Mr. Murphy? A. Somewhere around the first of May, 1911.

x Q. 125. Was there any correspondence between you and Mr. Murphy? A. No, sir.

x Q. 126. Where was the arrangement made? A. Mr. Murphy called on me at our office.

x Q. 127. What makes you think it was in the month of May? A. Because we put on a newspaper deal very soon afterwards, which I think began the latter part of May. 2427

x Q. 128. Where was that? A. I have no particular objection to stating, but I think it is a private business matter. I will give it to you. The Times Union, Albany, New York.

x Q. 129. Was that the first time that you had seen Mr. Murphy when he came to your office?

A. The first time I met him. 2428

x Q. 130. Never had any correspondence with him before that? A. None.

x Q. 131. When these various newspapers were handling the "Condensed" dictionary, how did you keep in touch with the sales?

MR. HALE: Objected to as irrelevant and immaterial.

A. Mr. Murphy would write in an order to ship.

2429

Sumner C. Britton—Cross.

x Q. 132. Who would they be billed to? A. Be billed to the newspapers.

x Q. 133. By whom? A. By Reilly & Britton Company.

x Q. 134. Did you ship them from this office, here? A. Shipped them from the bindery, usually.

2430 x Q. 135. Why did so many of the advertisements of the St. Louis Republic, for example, feature the name of G. & C. Merriam Company? A. I presume because the Merriam Company's name in connection with a dictionary is usually a guarantee of excellence.

x Q. 136. Do you think it is a guarantee of excellence in this case? A. I do.

x Q. 137. You think the "Condensed" dictionary is an excellent book?

2431 MR. HALE: Objected to as incompetent, irrelevant and immaterial, and going beyond the issues, this book not being in issue in this case.

A. It has been very largely copied by imitators, which would lead one to believe that it is an excellent book.

x Q. 138. Do you know any book which has copied it? A. The plan of it.

2432 x Q. 139. The plan of the "Condensed" dictionary? A. The plan of the "Condensed" dictionary.

x Q. 140. You don't know any book that has copied the "Condensed" dictionary by name then? A. Not by name.

x Q. 141. So you really didn't have any book in mind when you said that? A. I had in mind that the manner of handling words through the text in order to get a large number of words through the text, as this book shows, and that in making the scope of the book as large as possible the qualifi-

cations and words have been imitated. I can give you the name of one book very similar to it, which is the one called "Webster's Twentieth Century Dictionary."

x Q. 142. Who published that book? A. I think it was published by W. R. Van Zant & Company.

x Q. 143. Ever published by the Madison Book Company? A. No; that is, we never owned the plates, we may have had a number of them.

2434

x Q. 144. Was it published with your imprint? A. Yes, it might have been, at one time.

x Q. 145. Is this a copy of that book (handing witness book)? A. Yes, sir.

MR. CARROLL: I ask to have it marked for identification. Said book marked "Referred to by witness Britton, July 12, 1912, K. S. Holmes."

x Q. 146. Is this one of your catalogues advertising that book (handing witness catalogue)?

2435

MR. HALE: Objected to as incompetent, irrelevant and immaterial, and not proper cross-examination, and as an attempt on the part of defendant to introduce new proofs in chief after resting his case, and during complainant's time for taking rebuttal proofs, and the witness is requested to suspend his answer until directed to answer by the Court.

2436

MR. CARROLL: The attempt of counsel for complainant to defeat proper cross-examination is protested.

MR. HALE: Complainant's counsel, by all proper legal means, will limit the cross-examination of this and all other witnesses to its proper scope. Witness suspends answer as requested.

2437

Clarence W. Taber—Direct.

MR. CARROLL: I ask to have this catalogue marked for identification.

Said catalogue marked, "Referred to by witness Britton, July 12, 1912, K. S. Holmes."

MR. CARROLL: That is all with this witness.

2438

CLARENCE W. TABER, a witness called on behalf of the complainant, having first been duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. Please state your name, age, residence and occupation? A. Clarence W. Taber; Evanston, Illinois; general agent for the G. & C. Merriam Company, Springfield, Massachusetts; age, 41.

2439 Q. 2. How long have you been connected with the Merriam Company? A. Nearly five years.

Q. 3. Do you remember being commissioned by the Merriam Company to interview Mr. Edward T. Roe in connection with a dictionary called the "Crown Dictionary" published by Louis Klopsch, of the Christian Herald? A. I do.

Q. 4. When was that? A. In the month of April, 1912.

Q. 5. Did you see Mr. Roe? A. I did.

2440 Q. 6. And have a conversation with him in regard to this book? A. I did.

Q. 7. Please state in your own way what you said to him and what he said to you in this conversation.

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial, Mr. Roe not having been called for cross-examination, and statements made to this witness

Clarence W. Taber—Direct.

2441

not being binding upon either of the defendants, and on all the further grounds on which counsel for complainant objected to the deposition of Lauren Carroll taken at Springfield.

MR. HALE: This testimony is offered in rebuttal of similar testimony offered by counsel for defendant, Mr. Lauren Carroll, who at Springfield offered in evidence what purported to be a letter from the said Edward T. Roe, which letter was placed at length upon the record. 2442

A. I asked Mr. Roe if he could or would give us any information as to the source from which he had made the dictionary sold by him to the Christian Herald.

Q. 8. Did he give you the name of the dictionary which he said he used in compiling said "Crown Dictionary"? A. He said it was an English dictionary, the exact title of which he would not give off hand, but that it was either the Imperial Students' Dictionary or the Students' Imperial Dictionary published in London. 2443

Q. 9. Did he say anything as to whether he actually used the English or an American edition of the work specified?

MR. CARROLL: Same objection as made heretofore.

It is stipulated that the same objections shall be made to each one of these questions. 2444

A. He said he procured two copies of the English edition from A. C. McClurg & Company, and that he pasted up the sheets as is customary in such work and made his dictionary from those original sheets.

Q. 10. What, if anything, did he say as to what

2445

Clarence W. Taber—Direct.

use he made of any edition of Webster's Dictionary in the composition of his work? A. He said that he only used the current American dictionaries in a legitimate way, and that this book was not based in any way upon the 1847 edition of Webster's Dictionary published by G. & C. Merriam Company.

2446 Q. 11. Did he say whether or not he used any prior edition of Webster's Dictionary? A. He said he had not used any prior edition of Webster's Dictionary for that purpose.

Q. 12. Did he say anything as to the extent to which his book would correspond with the English dictionary which he said he used? A. He said it was almost identical with the English edition with the exception of some new words that he had added and some English spellings and phraseology that he had changed to suit the needs of the trade in this country.

2447 Q. 13. Having obtained this information, what did you do? A. I asked him to make an affidavit to that effect; he refused to do so.

Q. 14. What reasons did he assign for that refusal? A. He stated that he had been approached by counsel for the defendants to make a similar affidavit for their side of the case, and that he could not conscientiously or honorably do so, and that he had promised them that he would not make a similar affidavit for the other side, and that as he was engaged as an editor for a publisher of another so-called Webster's Dictionary, he did not feel as though he should drag a third party into the case.

2448

Q. 15. Did you at any time or in any form, either in substance and effect, request Mr. Roe not to make an affidavit for the defendants in this case? A. I never did.

Q. 16. Did Mr. Roe show you the affidavit which he had been requested to make and sign on be-

half of the defendants? A. He did, and he said there was not a word of truth in it.

Q. 17. Did you read that affidavit? A. I did.

Q. 18. Do you remember anything which it contained? A. Not specifically, except that it was to the effect that the dictionary was based upon, I think it was the 1847 edition of Webster's Dictionary published by the G. & C. Merriam Company.

2450

Q. 19. And was that statement the statement to which Mr. Roe specifically referred when he stated that there was not a word of truth in the affidavit? A. It was.

Q. 20. And for that reason he would not sign it A. It was.

Q. 21. Did you communicate all these facts to the Merriam Company? A. I did.

Q. 22. And that was the first information which they had as to the name of the book used by Mr. Roe, so far as you know? A. It was.

2451

Q. 23. Can you fix the precise date of this interview you had with Mr. Roe? A. Only by referring to to what correspondence I might have had with the company at the time; it was about April 22nd or 23rd.

MR. HALE: You may cross examine.

CROSS-EXAMINATION by Mr. Carroll:

x. Q. 24. When was the first time you saw Mr. Roe? A. I couldn't tell exactly, I should judge it was about eight or nine years ago. 2452

x Q. 25. When was the first time you spoke to him about the so-called "Crown Dictionary"? A. I talked to him in regard to it long before I was connected with the Merriam Company.

x Q. 26. Approximately when was that? A. It might have been six years ago, it might have been seven or eight years ago, I couldn't tell you.

2453

Clarence W. Taber—Cross.

x Q. 27. What did he say to you about it at that time? A. Why, he was offering an excuse for his reason for making that dictionary when he was at the same time making a similar dictionary for the other publisher, and the other publisher didn't know anything about it. He was supposed to be the editor of the Laird & Lee dictionary, and while employed in that capacity he had made or sold during that time to the Christian Herald the copy of the "Crown" dictionary which he was also supposed to be the author of.

2454

x Q. 28. Did you see him from time to time then? A. I did.

x Q. 29. Did you know him quite well? A. I did.

x Q. 30. When did you first speak to him about this present litigation in any way? A. Do you refer to the Syndicate litigation?

2455

x Q. 31. Yes. A. I don't remember whether it was at that interview in April or whether I had spoken to him in regard to it a few days or a few weeks previously to it.

x Q. 32. Did you speak to him about it before January, 1912? A. I might have done so; he was interested in the Laird & Lee dictionary and I was interested in the others and news of that kind, of course, would be discussed between us should we happen to meet.

2456

x Q. 33. So that you might very well have discussed the possibility of his testifying in the case until the interview at his home in April, 1912? A. No, I did not discuss his testifying in that case until the interview at his home in April, 1912.

x Q. 34. You are absolutely sure of that? A. Absolutely sure.

x Q. 35. Did you ever ask him by he put the statement on the title page, "Based upon the Unabridged Dictionary of Noah Webster, LL.D."?

MR. HALE: Objected to as incompetent,

irrelevant and immaterial, and because there is no evidence in this case that Mr. Roe did place that statement upon the title page of defendant's dictionary.

A. I am not certain whether I did or not.

x Q. 36. What is your best belief in the matter?

A. I couldn't answer the question any more intelligently on account of associating him with the Laird & Lee dictionary over which we have had so many discussions. 2458

x Q. 37. You said you asked him to make an affidavit some time in April? A. I did.

x Q. 38. What was the purpose of that affidavit?

A. That the information he gave to me personally might be produced in legal form that it could be used in court as evidence.

x Q. 39. Didn't you at that time ask him why he put the statement on the title page, "Based upon the Unabridged Dictionary of Noah Webster, LL.D."? A. If I did so I couldn't state it as a fact. 2459

x Q. 40. How do you reconcile his two statements, namely, the one on the title page that it is based upon the Unabridged Dictionary of Noah Webster, and the other one which you say he made, namely, that he had not used the Unaridged Dictionary of Noah Webster in the preparation of the book at all?

MR. HALE: Objected to as incorrectly assuming that the witness reconciled or tried to reconcile Mr. Roe's statement with the statement upon the title page of the dictionary. 2 60

A. I knew it couldn't be reconciled so I didn't try to do so.

2461 *Clarence W. Taber—Re-direct—Re-cross.*

RE-DIRECT EXAMINATION by Mr. Hale:

Re-D. Q. 41. If you did speak to Mr. Roe about the Syndicate matter at all early in 1912, you did not obtain the name of the English book which he used until April 22, 1912, as stated by you, is that correct?

2462 MR. CARROLL: I object to the form of the question on the ground that it has only been testified to by the most incompetent hearsay testimony that Mr. Roe ever used any English book in the preparation of the so-called "Crown Dictionary."

2463 MR. HALE: On the contrary, it has been incontrovertibly proved that the compiler of defendant's dictionary did use an English dictionary, to-wit, the British Empire Dictionary, and the book itself has been produced and compared at length with defendant's dictionary, thus corroborating Mr. Roe's statement to this witness.

2464 (The Witness): I desire to make a correction. I did have a conversation with Mr. Roe in regard to the Syndicate dictionary a short time previous to my meeting him at his home in April, 1912. I had asked Mr. Lee, Mr. Roe's employer, for information in regard to the source from which Mr. Roe had made the "Crown Dictionary," and Mr. Lee took me to Mr. Roe in his office and had me ask Mr. Roe the direct question, having given me the information desired in a general way I felt I had sufficient material to base an affidavit upon.

RE-CROSS EXAMINATION by Mr. Carroll:

Re-x Q. 42. Can you fix approximately the date when you were with Mr. Lee and interviewed Mr. Roe? A. I should think it would be within two or three weeks prior to the latter part of April, 1912.

J. F. Murphy—Direct.

2465

J. F. MURPHY, a witness called on behalf of the complainant, having first been duly cautioned and sworn, testified as follows:

DIRECT EXAMINATION by Mr. Hale:

Q. 1. State your full name, age, residence and occupation? A. John F. Murphy; newspaper promoter; I live at 5941 Calumet Avenue, Chicago.

Q. 2. Have you or have you not ever been in the employ of the G. & C. Merriam Company, the complainant in this case? A. No. 2466

Q. 3. Have you ever had any contract relations with them? A. No.

Q. 4. Mr. A. L. Swift, a witness for defendant in this case has testified that you told him that you were working for the Merriam Company, this was some time in the year 1911. Is that statement true? A. It is not.

Q. 5. Who were you working for at that time? A. For myself. 2467

Q. 6. Did Mr. Swift know this to be the fact? A. I believe that he did.

Q. 7. What reasons have you for that belief? A. Why, he told me that I acted in a very foolish manner in going out and using my money to promote some one else's scheme; that he had worked along different lines, he had risked no money of his, if his proposition proved a failure why he lost nothing, if it was a success he got as much money as anybody. 2468

Q. 8. And that is the basis of your statement that he knew at that time that you were working for yourself and not for the Merriam Company? A. Absolutely.

Q. 9. Have you ever been in the employ of The Syndicate Publishing Company? A. Yes, sir.

Q. 10. During what time? A. In the months of February, March and April, 1911.

Q. 11. Was that at the beginning of their news-

2469

J. F. Murphy—Direct.

paper exploitation of their so-called "Webster's New Standard Dictionary"? A. It was just after the start of it.

Q. 12. Where did that campaign start, if you know? A. In Pittsburg, on the Pittsburg Post.

Q. 13. What if anything did you have to do with that campaign and the Pittsburg Post advertisements? A. Previous to my going into the employ
2470 of The Syndicate Publishing Company, I was connected with the Philadelphia North American, handling a deal that Mr. Adair, General Manager of The Syndicate Publishing Company had entered into previous to his connection with The Syndicate Publishing Company; when Mr. Adair and Mr. Swift entered into the partnership, or bought stock in The Syndicate Publishing Company they removed their headquarters from Philadelphia and went to New York. In the month
2471 of January Mr. Swift came from New York with copies of advertisements taken from the Boston American.

Q. 14. Advertisements of what? A. Of a dictionary used on a coupon scheme which he had received through Mr. F. E. Wright. He brought those to Philadelphia, which Mr. Swift said he secured from Mr. Wright.

Q. 15. What dictionary was advertised in these advertisements from the Boston American? A.
2472 G. & C. Merriam's Condensed Dictionary.

Q. 16. What took place in Philadelphia when Mr. Swift brought these advertisements and saw you in Philadelphia? A. We went to work on that advertising in the office that I occupied there, and we worked along a scheme to bring about the same sort of a scheme to use on the New Illustrated.

Q. 17. You mean the Webster's New Illustrated Dictionary? A. Yes.

Q. 18. Proceed with your answer, please. A.

Mr. Swift asked my advice as to the success of such a proposition. I asked him how it went down in Boston. He said they had sold a tremendous amount of books, so he understood. We looked into the scheme as it stood, as it was published in the Boston American, and I told him that I thought it was a mighty good scheme for a publisher, but a mighty poor one for the newspapers; that in order to make it more attractive for the newspaper you had to arrange some proposition whereby they would get circulation instead of selling books, and I suggested a school children's campaign. In my work on the Chicago Tribune I had met with very great success on the school children's campaign that I ran at Galesburg, and I suggested to Mr. Swift that that idea be applied in conjunction with a regular coupon scheme, that I thought they could work together. 2474

Q 19. What use did you and Mr. Swift make of these advertisements from the Boston American? 2475

A. We used them as a basis of the advertising that we got up.

Q. 20. How did you physically handle them? A. Well, we wanted to make it appear to the newspaper that took on the proposition that it was a going proposition, that it was not a new, untried proposition, and we clipped from the Boston American certain printed matter to convey that idea to a newspaper man who is used to newspaper copy. But we bought out the idea that whereas the Boston American proposition was more of a direct sale, we thought to get the advertising in such shape as the people reading it hurriedly would think they were to get a gift of this book instead of buying it direct; that we were to make a present of it to them, and they were supposed to merely pay so much expense money, which we called an expense bonus. 2476

Q. 21. Was any portion of the matter clipped

2477

J. F. Murphy—Direct.

from the Boston American which had been published in connection with Webster's Condensed Dictionary, printed and published in the Pittsburg Post or other papers after having been handled as you have described in connection with The Syndicate Company's book? A. In the Pittsburg Post some of it was.

Q. 22. Was this the display advertising or the reading notices, or both? A. Both, partly.

Q. 23. Have you any copies of the advertisements in the Boston American? A. I have not.

Q. 24. Can you point out anything in any of the advertisements in the Pittsburg Post which in and of itself would indicate the copying from the Boston American, if so, please do so and describe it. A. In the issue of February 6, 1911, of the Pittsburg Post, in the reading notices there states: "Those who can not conveniently come to the office can obtain books by mail by sending the six coupons required together with the cash expense bonus and fifteen cents for postage." Now the fifteen cents for postage was the amount that was required on the G. & C. Merriam Condensed Dictionary. On The Syndicate Publishing Company's New Illustrated book which we used in Pittsburg, the amount was twenty cents, it was later changed to twenty-two on other newspapers, which goes to prove what I say, conclusively, that this copy was just simply clipped and pasted by Mr. Patterson when he was getting up his reading notices.

2479

2480

MR. CARROLL: I object to that latter part of the answer and ask that it be stricken from the record.

Q. 25. And you do know as a matter of fact, and of your own knowledge, that reading notices were clipped and used in the manner you have al-

J. F. Murphy—Direct.

2481

ready testified, that is, I mean aside from this mere indicia? A. I have never seen a physical copy of Mr. Patterson's news copy, of course.

Q. 26. I am referring now to what you and Mr. Swift did. A. Oh, yes; yes.

Q. 27. Did that same reference to fifteen cents postage occur in any other reading notices which came under your observation? A. It occurred on the previous date, February 5, 1911, in the Pittsburgh Post. 2482

Q. 28. Have you ever known of The Syndicate Publishing Company's dictionary to be on sale in stores at any place? A. It was on sale in Horne's Department store in Pittsburgh during the progress of the campaign there.

Q. 29. At what price was that book sold at that store at that time? A. Sixty-two cents.

Q. 30. Was it advertised at that price? A. Yes, sir.

2483

Q. 31. Did you see the book? A. Yes, sir.

Q. 32. Did you buy a copy of it? A. Yes, sir.

Q. 33. I show you an advertisement of The Joseph Horne Co. in the Pittsburgh Post of March 7, 1911, on page 3, which is headed by the phrase in large type, "A Webster's Dictionary for 62 cents." Is that the advertisement to which you referred? A. Yes, sir.

Q. 34. And was that the advertisement which caused you to go to that store and purchase that book? A. Yes, sir. 2484

MR. HALE: The advertisement described is offered in evidence and will appear inserted in the volume marked in evidence as "Complainant's Exhibit Defendant's Advertisements."

The two advertising reading notices referred to by the witness and contained in the Pittsburgh Post of February 5, 1911, and February 6, 1911, are also offered in evi-

2485

J. F. Murphy—Cross.

dence and will appear in "Complainant's Exhibit Defendant's Advertisements."

Q. 35. I show you an advertisement and ask you if you can identify that as an advertisement clipped from the Pittsburg Post of February 12, 1911, it being an advertisement of defendant's Webster's New Illustrated Dictionary? A. Yes, 2486 sir.

MR. HALE: The advertisement identified by the witness is offered in evidence and and will appear in the exhibit volume marked "Complainant's Exhibit Defendant's Advertisements."

Q. 36. Mr. A. L. Swift further testified, on cross-examination, that while on the train going from Chicago to Philadelphia he met you and you told 2487 him that you were traveling for the Merriam Company; is that statement true? A. It is not.

Q. 37. Were you at that time or have you at any time traveled for the Merriam Company? A. I have never traveled for the Merriam Company.

Q. 38. Mr. Swift said that this occurred about five weeks prior to the date of his examination in which he so testified, which examination was held on June 26, 1912, this would bring it some time in the month of May. Do you recall meeting Mr. 2488 Swift upon the train at about that time? A. I do.

Q. 39. Did any such conversation take place? A. No, sir.

CROSS-EXAMINATION by Mr. Carroll:

x Q. 40. Do you know how the book of The Syndicate Publishing Company came to be on sale in Horne's Department Store in Pittsburg? A. Why I do not, except what information I gained from

Mr. Adair that the book was purchased from some jobber down in New York.

x Q. 41. Did you buy more than one copy of the book? A. Bought several copies.

x Q. 42. Did you, on behalf of The Syndicate Publishing Company, purchase all the copies which they had and offered for sale at that price in that store? A. We endeavored to buy everything they had on the counters.

2490

x Q. 43. What was the purpose of that? A. Simply to keep them from competing with the Pittsburg Post's proposition.

x Q. 44. It was for the purpose, was it not, of making truthful the statement that the book was not on sale in department stores?

MR. HALE: Objected to as calling for a conclusion of the witness.

A. Why Mr. Nevin, of the Pittsburg Post, was extremely put out because of the fact that the Horne people advertised the book at such a low price, and told me, he said that it looked to the general public as though the Pittsburg Post was trying to gouge them, and he talked like he wanted to stop the deal, and it was just simply to get those books out of the way and prevent any competition from that source that—

2491

x Q. 45. That—? The sentence is not finished. A. That is the reason we bought them up.

2492

x Q. 46. When did you go with The Syndicate Publishing Company? A. Some time in February; the early part of February, 1911.

x Q. 47. Can you fix the date in any way? A. No, I can't now.

x Q. 48. Have you any means of refreshing your recollection at all? A. I closed up the deal on the Philadelphia North American I think on the 8th of February, and went down to New York, and

2403

J. F. Murphy—Cross.

that was a Saturday, and the following Monday I went to Pittsburg entering into the employ of The Syndicate Publishing Company at that time.

x Q. 49. You think you went to Pittsburg then about the 10th or 12th of February? A. I think so.

2494

x Q. 50. And it was when you went to Pittsburg that you for the first time were in the employ of The Syndicate Publishing Company? A. Yes, sir.

x Q. 51. That is the first work you did for The Syndicate Publishing Company, was to go to Pittsburg. A. Well, some years ago in connection with a newspaper, with the Philadelphia Press I had some connection with The Syndicate Publishing Company.

x Q. 52. But on this work, immediately after you went with The Syndicate, you went to Pittsburg? A. Yes.

2495

x Q. 53. When did Mr. Swift show you the advertisements cut from the Boston American which you have spoken about? A. That was some time in January, I couldn't tell you the exact date.

x Q. 54. Where was that? A. In Philadelphia.

x Q. 55. You were not at that time employed by The Syndicate Publishing Company? A. I was not, no.

2496

x Q. 56. How did he happen to show them to you? A. He brought them over and told me that Frank Wright had got onto a live one up in Boston, they were selling a tremendous amount of dictionaries up there and wanted to frame up a proposition and start it and asked my advice about it.

x Q. 57. Did you have anything to do with the Boston game? A. Nothing at all.

x Q. 58. Do you know whether or not it was a success in Boston? A. I take it for granted from

the Boston American advertisements which I saw that Mr. Swift brought to Philadelphia.

x Q. 59. Did you ever see the so-called "Uncle Sam" cut in the Boston American advertisements? A. I can't recall that I ever did.

x Q. 60. You spoke of having worked with Mr. Swift cutting up advertisements and preparing them; where was that? A. In Philadelphia.

x Q. 61. At what time? A. In the middle of January,—the early part of January; some time in January, I think it was the early part, toward the middle of it. 2498

x Q. 62. Was Swift working for the Syndicate at that time? A. He was connected with the Syndicate at that time.

x Q. 63. Had the Pittsburg Post campaign started? A. No, it had not.

x Q. 64. Had he made any arrangement with the Pittsburg Post at that time? A. I don't believe that he did. 2499

x Q. 65. Did you actually have anything to do with preparing any of the advertisements which were used in the Pittsburg Post on the coupon plan? A. In the matter of advice and suggestion I did.

x Q. 66. Did you actually, physically, prepare any? A. I did.

x Q. 67. When was that? A. After I had been in Pittsburg.

x Q. 68. You prepared some advertisements that were used in connection with the coupon scheme? A. Yes, sir. 2500

x Q. 69. Were they successful?

MR. HALE: Objected to as calling for a mere guess or conclusion of the witness, and because the success of a campaign depends upon all advertisements and can not be traced to any one.

MR. CARROLL: The question is directed

2501

J. F. Murphy—Cross.

simply to the success of the advertisements which Mr. Murphy says he prepared.

MR. HALE: How can that be tested?

MR. CARROLL: Mr. Murphy will know.

A. I couldn't. I don't know just how I could answer that question.

2502 x Q. 70. Was any advertisement prepared by you in connection with the coupon scheme used more than once? A. I don't think it was.

x Q. 71. You wouldn't say that your writing of advertisements in connection with a coupon scheme wasn't successful, would you? A. Well, that would be a hard matter to say, whether they were successful or not.

2503 x Q. 72. About how many different advertisements did they have, display advertisements, in the Pittsburgh Post? A. Right at the start they had very few and there was constant repetition.

X Q. 73. What do you mean by "at the start"? A. The start of the campaign.

x Q. 74. When was that? A. The campaign started on February 5, if my recollection is correct.

x Q. 75. Approximately how many did they have? A. I don't know. I couldn't say that.

x Q. 76. Six or eight? A. Well, I don't think they had; they probably had about a half a dozen.

2504 x Q. 77. You kept using the same ones over and over again? A. Yes.

x Q. 78. Who wrote the reading notice in Pittsburgh? A. Mr. Patterson.

x Q. 79. Did he have the same ones over and over again? A. No, his differed every day.

x Q. 80. Did he use the Boston advertisements to any extent? A. For the basis of his first write-ups and at the start he did.

x Q. 81. He didn't for very long, though, did he? A. No, he didn't, not very long, but to get

the idea, you know, why he had the Boston American reading notices.

x Q. 82. That was only for two or three days, wasn't it? A. Well, I couldn't say as to that, of course I didn't—

x Q. 83. Were you there at that time? A. I was there about a week, I judge, after the campaign opened.

x Q. 84. During the time that you were there do you recall any instances where Mr. Patterson used any of the Boston reading notices? A. Only those two that I have already referred to, as regards fifteen cents postage. 2506

x Q. 85. The dates of those were February 5th and February 6th, yet you said you did not go to Pittsburg until about the 12th. A. Yes, sir.

x Q. 86. Do you wish to correct your previous statement then that these reading notices were used while you were in Pittsburg? A. I don't think that I made that statement. 2507

Question 80 and answer of witness read.

A. Well then, that will have to be corrected.

x Q. 87. Then during the time that you were in Pittsburg, Mr. Patterson did not, so far as you know, use the Boston reading notices at all? A. No.

x Q. 88. Was the so called school children's canvass, which you say you suggested to Mr. Swift, a success? A. No, sir. 2508

x Q. 89. Did you do anything else except work on that school children's canvass while you were in Pittsburg? A. Yes, I made displays of books and generally handled the campaign there.

x Q. 90. You mean to say you had charge of the campaign in Pittsburg? A. Well, every matter that come up between Mr. Nevin and Mr. Swift that had to be straightened out was taken up with me. Mr. Wright wrote me and asked me to look

after some collections there when the Post had failed to remit, the account was running into some thousands of dollars.

2510 x Q. 91. Except for the one advertisement which you have spoken of as having been written by you, which you say was used only once, did you write any other advertisement used in connection with the coupon scheme in Pittsburg? A. I wrote considerable advertising for the school children's campaign.

x Q. 92. That had no connection with the coupon scheme, however, had it? A. No direct connection, no.

x Q. 93. Did those advertisements appear in the Pittsburg Sun and not in the Post? A. Yes, sir.

2511 x Q. 94. So that, as a matter of fact, you only wrote one advertisement which appeared in the Pittsburg Post, and that appeared only once? A. I can't recall now.

x Q. 95. Did you meet Mr. Swift in Detroit? A. Yes, sir.

x Q. 96. In the spring of 1911? A. Yes, sir.

x Q. 97. Where was that? A. At the Cadillac Hotel.

x Q. 98. What did you tell Mr. Swift you were doing? A. Told him that I was handling the Reilly & Britton book on a coupon proposition of my own.

2512 x Q. 99. Are you sure that you didn't mention the name of the Merriams? A. Absolutely.

x Q. 100. You are sure you didn't say you were handling the Merriam book? A. Why, I might have said the G. & C. Merriam dictionary condensed, might have described it in that way.

x Q. 101. Then it is possible that you did mention the Merriams? A. Oh, yes.

x Q. 102. Did you personally conduct the campaign in connection with the Merriam's "Condensed" dictionary in St. Louis? A. Yes, sir.

MR. HALE: That question is objected to as incompetent, irrelevant and immaterial and not proper cross-examination, that matter not having been touched upon in the direct examination.

x Q. 103. Why did you, in so many of those advertisements in St. Louis, feature the name of the G. & C. Merriam Company? A. Why, to add to the value of the advertisement; to use the prestige of the G. & C. Merriam Company to help the sale. 2514

x Q. 104. To your knowledge was the Merriam "Condensed" dictionary ever sold in Pittsburg in connection with a newspaper scheme? A. Not to my knowledge.

x Q. 105. Did you see Mr. Swift in St. Louis when you were there? A. I did not.

x Q. 106. How long were you there in St. Louis? A. Oh, I was off and on in the town; would go in and stay two or three days then go out and go to some other city; I wasn't there regularly. 2515

x Q. 107. How much notice did you give The Syndicate Publishing Company when you left their employ? A. Why, I went down and told Mr. Adair, he was General Manager of The Syndicate Publishing Company, that I was dissatisfied, that things had not come as I expected they would when I left the Chicago Tribune to go out with him, and that I was going to do what I intended to do then, go in business for myself, as I thought I was going in business with him when I left the Tribune. 2516

x Q. 108. When was that? A. In October of 1910. You mean when I left the Chicago Tribune?

x Q. 109. No, I mean The Syndicate Publishing Company. I said how much notice did you give The Syndicate Publishing Company when you left their employ? A. I don't think I gave them very

2517

J. F. Murphy—Cross.

much notice. I think I went in the forenoon and told them I was going to Chicago that afternoon.

x Q. 110. When was that? A. I don't recall the exact date; the latter part of April.

x Q. 111. Was it within a day or two after you returned from Pittsburg? A. Oh, no, it was a week or ten days.

2518 x Q. 112. When did you begin handling the Merriam book? A. May the 8th I believe I started to handle it; I think that was the date.

x Q. 113. I show you a letter signed J. F. Murphy, dated February 27, 1911, and ask you if that is your hand writing? A. Yes, sir.

x Q. 114. Does that refresh your recollection as to the date when you arrived in Pittsburg? A. Yes, sir, that is the date.

2519 x Q. 115. You are now able to testify that you arrived in Pittsburg on February 27, 1911? A. Yes, sir.

x Q. 116. You were not there before that date? A. Yes, sir; yes, sir, that is right.

x Q. 117. That is right, you were not there before that date? A. Yes, sir, that is correct.

x Q. 118. I show you another letter dated May 2, 1911, signed J. F. Murphy, and ask if that is your handwriting? A. Yes, sir.

2520 x Q. 119. Was it by means of that letter that you resigned from The Syndicate Publishing Company? A. No, I went in and told Mr. Adair that I was going into business for myself.

x Q. 120. Was it that day? A. Just about that time, I went out of town that night.

x Q. 121. So that you are now able to state that the day you left the employ of The Syndicate Publishing Company was May 2, 1911? A. Yes, sir.

x Q. 122. When you met Mr. Swift on the train in the spring of 1912, what did you tell him with reference to your occupation? A. Why, I don't know as I made any particular reference to what

Notary's Certificate.

2521

I was doing, as a matter of fact, at that time, I had ceased handling the Reilly & Britton book, hadn't done any business for some little time on it, and I was handling a vacuum cleaner, and I didn't want to tell Mr. Swift what I was doing.

x Q. 123. Are you handling the Reilly & Britton book now?

MR. HALE: Objected to as irrelevant and immaterial. .

2522

A. I think our relations are very cordial; I think I could handle it if I wanted to, but I am not at the present time handling it.

MR. CARROLL: That is all.

MR. HALE: I think that is all, Mr. Murphy.

DEPOSITIONS CLOSED.

2523

UNITED STATES OF AMERICA,	} ss.:
Northern District of Illinois,	
Eastern Division.	
State of Illinois,	
County of Cook,	

I, Kate S. Holmes, a Notary Public in and for the County of Cook in the State of Illinois, do hereby certify that the foregoing depositions of Sumner C. Britton, Clarence W. Taber and J. F. Murphy, were taken on behalf of the complainant in two certain causes now pending and undetermined in the District Court of the United States for the Southern District of New York, wherein G. & C. Merriam Company is complainant and CUPPLES & LEON Co., in one suit is defendant, and wherein G. & C. Merriam Company is complain-

2524

2525

Notary's Certificate.

ant and THE SYNDICATE PUBLISHING COMPANY in the other suit is defendant, before me by consent and pursuant to the stipulation entered of record, at the office of Rielly & Britton Company, 1006 South Michigan Avenue, Chicago, Illinois, on the 12th day of July, 1912, beginning at 11:30 o'clock A. M.; that Mr. William B. Hale was present as counsel for complainant, and Mr. Lauren Carroll as counsel for defendants during the taking of said depositions; that the said witnesses were duly sworn by me before the commencement of their depositions; that the signatures of said witnesses were waived by agreement of counsel; that I am not connected by blood or marriage with either of the parties to these suits, nor interested, directly or indirectly, in the matter in controversy.

2527

IN WITNESS WHEREOF I have hereunto set my hand and seal this 19th day of July, A. D. 1912.

KATE S. HOLMES,

Notary Public.

My Commission expires in March, 1914.

Fee for taking depositions \$30.

Paid by complainant.

KATE S. HOLMES,
Notary Public.

2528

DISTRICT COURT OF THE UNITED STATES 2529

SOUTHERN DISTRICT OF NEW YORK.

G. & C. MERRIAM COMPANY,
Complainant,

VS

CUPPLES & LEON COMPANY,
Defendant.

2530

G. & C. MERRIAM COMPANY,
Complainant,

VS

SYNDICATE PUBLISHING COMPANY,
Defendant.

2531

Depositions in rebuttal on behalf of Complainant, taken before Charles K. Darling, Esq., as Special Examiner duly appointed in the above entitled causes, at the office of the Special Examiner in the Post Office Building, in the city of Boston, and State of Massachusetts, on the 18th day of July, 1912, at 2 o'clock P. M., pursuant to notice.

APPEARANCES:

2532

WILLIAM B. HALE, Esq., Counsel for the
Complainant;

LAUREN CARROLL, Esq., Counsel for both
Defendants.

2533

Michael J. Conroy—Direct.

STIPULATION.

It is hereby stipulated that the testimony of all witnesses produced at this examination before Special Examiner Darling may be taken stenographically by a competent stenographer appointed by the Special Examiner and subsequently transcribed and reduced to typewriting.

2534 It is further stipulated that the signatures of all witnesses so examined shall be and hereby are waived.

MICHAEL J. CONROY, a witness for Complainant, having been first duly cautioned and sworn, testified as follows:

By Mr. Hale:

2535 Q. 1. Mr. Conroy, will you please state your full name? A. Michael J. Conroy.

Q. 2. Residence and occupation? A. 293 Broadway, South Boston; reference library in Public Library, Boston.

Q. 3. Will you please produce here a file of the Boston American for the month of September, 1910? A. Yes, sir.

Q. 4. Is this bound volume a file of these papers? A. Yes, sir.

2536 Q. 5. From what source did you produce this volume? A. From our file in the Library. We bind all the Boston papers, morning and evening editions.

Q. 6. This volume then is the property of the Boston Public Library? A. Yes, sir.

MR. HALE: I think that is all.

[NO CROSS-EXAMINATION.]

K. N. Washburn—Direct.

2537

K. N. WASHBURN, a witness recalled on behalf of Complainant in rebuttal, having been first duly cautioned and sworn, testified as follows:

By Mr. Hale:

Q. 1. Mr. Washburn, I believe you are the secretary and one of the managers of the G. & C. Merriam Company, the Complainant in this case?

A. I am.

Q. 2. Is the Complainant the owner of the copyright of a book known as Webster's Condensed Dictionary? A. It is.

2538

Q. 3. Are you acquainted with the concern of Reilly & Britton of Chicago? A. I am.

Q. 4. Do you sell copies of Webster's Condensed Dictionary to that firm of Reilly & Britton?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial, and as leading.

A. We do.

2539

Q. 5. Will you please state the arrangements between your firm and Reilly & Britton in regard to the Webster's Condensed Dictionary? A. We sell them the books that they use and they pay us for them.

Q. 6. Is that an oral or a written arrangement? A. Oral.

Q. 7. When was it first entered into? A. I am not certain of the date, but I think it was in 1906.

Q. 8. And it has continued ever since? A. It has.

2540

Q. 9. State whether or not the Merriam Company sells that book to any other person than Reilly & Britton; in other words, have they any exclusive rights in that book? If so, state what they are. A. They have the exclusive right of the sale in the United States and Canada.

Q. 10. What, if anything, has the Merriam Com-

2541

K. N. Washburn—Direct.

pany to do with the sales of that book? A. Nothing.

Q. 11. Has the Merriam Company ever exploited and sold that book, Webster's Condensed Dictionary, through the newspapers upon a coupon plan? A. It has not.

Q. 12. Has it ever had anything to do with the distribution of that book upon that plan?

2542

MR. CARROLL: Objected to as calling for a conclusion of this witness.

A. It has not.

Q. 13. Has a gentleman by the name of J. F. Murphy ever been in the employ of the Merriam Company? A. No.

Q. 14. Have you ever had a contract with J. F. Murphy for the sale of any of the books of the complainant company? A. We never have.

2543

Q. 15. To your knowledge has J. F. Murphy ever been in the office of the Merriam Company? A. He has not.

Q. 16. I presume you are familiar with the newspaper campaign by which the defendant, Syndicate Publishing Company, has distributed their book under the name of "Webster's New Standard Dictionary," sometimes called "Webster's New Illustrated Dictionary," through the newspapers under a coupon plan, are you not? A. Yes.

2544

Q. 17. Was it ever called to your attention or to the attention of any other member of your firm, to your knowledge, that any of the advertisements used by the Syndicate Publishing Company had been copied or imitated in connection with the newspaper distribution of Webster's Condensed Dictionary? If so, state when and all the facts in relation thereto. A. What knowledge I have on that subject came after the commencement of this suit.

Q. 18. Can you fix the date and state what that knowledge was more particularly? A. I can't fix any exact date. I should say it was sometime in the winter of 1911 and '12.

Q. 19. What did you hear in that connection and what were the circumstances? A. That it was during a visit to Springfield of Mr. Britton of Rielly & Britton, and he called my attention to that fact at that time.

2546

Q. 20. To what fact? A. To the fact that apparently the Syndicate Publishing Company was imitating advertisements which had first been started by them.

Q. 21. By them do you mean Reilly & Britton? A. Reilly & Britton Company.

MR. CARROLL: Objected to as not responsive.

Q. 22. I think you misunderstood the original question which related to the copying of advertisements first issued by the Syndicate Publishing Company, and which were claimed by them to have been copied by your firm in connection with the Condensed Dictionary. What is the fact as to that? Did you ever hear of any such claim? A. Not until quite recently.

2547

Q. 23. What and when first did you hear of any such claim? A. Why, I think when reading over the testimony of some of the witnesses for the defence.

2548

Q. 24. That would be within the last few weeks? A. Yes.

Q. 25. Mr. A. L. Swift, an officer of the Syndicate Publishing Company, has testified that upon the occasion of a visit by him to your company in October, 1911, he complained to your company and to you personally that your company had copied the advertisements of his company. Do

2549

K. N. Washburn—Direct.

you recall that conversation? A. I have no recollection of that.

Q. 26. At any time did you have any information or knowledge or even suspicion that any of the advertisements of the Syndicate Publishing Company had been copied or were claimed to have been copied and applied to the Webster's Condensed Dictionary by any person? A. Not that I recall.

2550

Q. 27. I show you file of the Boston American, a newspaper published in Boston, produced here from the Boston Public Library and identified by the last witness, and ask you if you have examined the same and observed the advertisements and the plan of distribution of the Webster's Condensed Dictionary as appears in these newspapers? A. I have.

2551

Q. 28. Did you observe that the plan of distribution was carried on by means of large display advertisements appearing from day to day covering a considerable period? A. I did.

Q. 29. And that the book was offered for certain specified prices in connection with coupons to be clipped from the paper? A. Yes.

Q. 30. And did you observe also that as part of the scheme of publicity the paper contained what may be termed reading notices referring to the dictionary distribution? A. I did.

2552

Q. 31. Have you also examined specimens of the Syndicate Publishing Company's newspaper advertising which are contained in the volume marked "Complainant's Exhibit, Defendant's advertisements," and in the other volume marked "Complainant's Exhibit, additional advertisements of Defendant"? A. I have.

Q. 32. What can you say in a general way as to whether or not the two books are distributed upon the same general plan of advertisements?

MR. CARROLL: Objected to as incompe-

K. N. Washburn—Direct.

2553

tent, irrelevant and immaterial, and as calling for a conclusion of this witness which he is not competent to make.

A. They are.

Q. 33. Have you particularly observed the coupons published in connection with Webster's Condensed Dictionary in the Boston American for September, 1910, with the coupons as published by the Syndicate Publishing Company and as contained in the exhibits mentioned? A. I have. 2554

Q. 34. I show you a specimen of the Syndicate Publishing Company's coupon as contained on page 7 of Complainant's Exhibit, Defendant's advertisements, and ask you to compare it with the dictionary coupon contained on page 2 of the Boston American of September 1st, 1910, published in connection with Webster's Condensed Dictionary, being then distributed by the Boston American, and ask you to point out any identities or similarities which exist in type, language or shading or other features? 2555

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial, on the ground that the advertisements referred to speak for themselves, and on the further ground that the advertisement in the Boston American has not been offered in evidence.

MR. HALE: Complainant's counsel is but following the same plan of examination followed by the objecting counsel in his examination along this same line of the witness A. L. Swift. 2556

A. The coupons have the same darkened and shaded background, and they have quite a similar wording, both being called the "Dictionary Coupon," with a space for the date in an unshaded space, followed by the identical wording

2557

K. N. Washburn—Direct.

except as to the number of coupons to be used to procure a dictionary.

MR. HALE: Complainant offers in evidence the language of the coupon as contained in the Boston American, and as it is impossible to offer the sheet itself in evidence, the book belonging to the files of the Boston Public Library, the language is read upon the record and is as follows:

2558

“BOSTON AMERICAN
DICTIONARY
COUPON

Thursday, Sept. 1st, 1910.

Seven Coupons of Consecutive
Dates Constitute a Set.

2559 Dictionary Department, 272 Devonshire St.,
Boston.”

Q. 35. The language in the Syndicate Publishing Company's coupon to which you referred as being substantially similar and in part identical, was the following, was it not:

“Webster's

New Illustrated

2560

DICTIONARY COUPON,

Monday, March 27.

Six Coupons of Consecutive Dates
Constitute a Set.”

Is that correct?

MR. CARROLL: Objected to as incompetent, irrelevant and immaterial. The advertisement speaks for itself.

K. N. Washburn—Direct.

2561

A. It is.

Q. 36. Have you examined the coupons which appeared from day to day during the month of September in the Boston American, and do you find them all in the form which you have just testified?

MR. CARROLL: Objected to on the same grounds.

2562

A. I do.

MR. HALE: Complainant is doing the only thing practicable under the circumstances, and the example was set by Defendant's counsel in a case where it would have been easily practicable to have allowed the exhibits to speak for themselves.

Q. 37. Please look at the advertisement of Webster's Condensed Dictionary which appears in the Boston American of Monday, September 12, 1910, at page 5, the same being a full page advertisement occupying the entire page 5. I ask you to compare that advertisement with the advertisements contained in Complainant's Exhibit, Defendant's advertisements, at page 63, being the issue of the Peoria Star of November 4, 1911, and also at the advertisement which appears on page 101 of Complainant's Exhibit, Defendant's advertisements, being the advertisement which appeared in the Los Angeles Times, and also the advertisement which appears in the same exhibit on page 107, being the advertisement which appeared in the Mobile Item of December 19, 1911, and also the advertisement which appeared in the Pittsburg Post of February 12, 1911, which was offered in evidence at Chicago on July 12th, 1912, these last named advertisements being advertisements of the Syndicate Publishing Company's book, Web-

2563

2564

2565

K. N. Washburn—Direct.

ster's New Illustrated Dictionary, and of the same book under the name of Webster's New Standard Dictionary, which was being advertised in those papers on those dates, and ask you to point out such similarities and identities as exist between these advertisements of the Syndicate Publishing Company and the advertisement of the Webster's Condensed Dictionary in the Boston American of September 12, 1910? A. The principal similarity is in the cut that is used, a caricature, I suppose, of Uncle Sam. The cut occupies nearly the whole of the left hand side of the page, with a cut of the dictionary in the center near the cut of Uncle Sam.

2566

Q. 38. And the dictionary is in the hands of Uncle Sam and is pointed to by him, is that correct? A. Yes.

Q. 39. I read to you the following language from the advertisement of Webster's Condensed Dictionary in the Boston American for September 12, 1910, and which for brevity we will refer to as the "Uncle Sam ad."

2567

"Here is Your Protection At home or abroad."

Do you find that language in large display type at the top of the page? A. I do.

Q. 40. What language in large display type of the same character of letter and of the same size do you find at the top of the page of the Uncle Sam ad. in the Pittsburg Post of February 12, 1911?

2568

Protection At home or abroad."

Q. 41. I find the following language in the Uncle Sam ad. of Webster's Condensed Dictionary in the Boston American of September 12th:

"The result of good fortune is the knowl-

edge of good English. At home or abroad one should have this knowledge. Go where you will, into the depth of ignorance or the height of education and you will find yourself in need at all times of that one great fortune, and that is—a handy reference guide of the correct English language. Confusion of mind to quick answer is the cause of a great deal of embarrassment amongst all classes of people.

2570

There is only one enlightenment to the correct and true path of knowledge, and that is through the WEBSTER'S CONDENSED DICTIONARY—a book that no family, student or business man can afford to be without. The BOSTON AMERICAN offers to help you along this path if you will but read what follows."

Will you please read what if any similar language you find in the advertisement of the Syndicate Publishing Company's book which appears in the Pittsburg Post of February 12, 1911?

2571

A. "The result of good fortune is the knowledge of good English. AT HOME OR ABROAD one should have this protection and knowledge. Go where you will, into the depth of ignorance or the height of education and you will find yourself in need at all times of that one great fortune and that is a handy reference guide of the correct English language. Confusion of mind to quick answer is the cause of a great deal of embarrassment amongst all classes of people.

2572

There is only one enlightenment to the correct and true path of knowledge and that is through the WEBSTER'S NEW ILLUSTRATED DICTIONARY—a book that no family, student or business man can afford

2573

K. N. Washburn—Direct.

to be without. The Pittsburg Post offers to help you along this path if you will but read what follows."

2574

Q. 42. Did you observe any differences between those two paragraphs, the one from the Boston American and the other from Pittsburg Post, except that the Pittsburg Post substitutes the title, "Webster's New Illustrated Dictionary," for the title, "Webster's Condensed Dictionary," and its own name, "Pittsburg Post," in the place of "Boston American"? A. There is no difference with those exceptions, and also the one word "Protection" in the sentence beginning: "At home or abroad one should have this protection and knowledge."

Q. 43. Otherwise the two paragraphs are identical? A. They are.

2575

Q. 44. I find in the Boston American Uncle Sam ad. the following language enclosed in a box:

"All you need to do is to cut seven dictionary coupons of consecutive dates from the daily and Sunday Boston American and present them with the price of any one of the three books you desire."

2576

Will you please read into the record any identical or similar language which you find placed in a box in the Uncle Sam ad. which appears in the Pittsburg Post? A. The language in the Pittsburg Post is as follows:

"All you need to do is to cut out six dictionary coupons of consecutive dates from the daily or Sunday Pittsburg Post and present them with the expense bonus amount set opposite any style selected (which covers the items of cost and packing, express from factory, checking, clerk hire, and other necessary expense items)."

K. N. Washburn—Direct.

2577

Q. 45. I also find the following language in the Uncle Sam ad. of the Boston American of September 12, 1910:

“Start to-day and cut out the coupons. You will find them in both the Sunday and daily American.”

Please read into the record any identical or similar language which you find in the Uncle Sam ad. of the Pittsburg Post. A. The similar language in the Pittsburg Post reads as follows: 2578

“Start to-day and cut out the coupons. You will find them in both the Sunday and daily Pittsburg Post.”

Q. 46. In the Boston American Uncle Sam ad. of September 12, 1910, I find enclosed in a box a description of three different styles of the book advertised with three different prices specified in large type at the right of each description. What do you find in the Pittsburg Post, Uncle Sam ad.? A. A similar box giving also three styles of binding of the Webster's New Illustrated Dictionary, headed in the Pittsburg Post, “Take your own choice of the books.” 2579

Q. 47. Do you find anything equivalent, similar or identical to the phrase in the Pittsburg Post ad., “Take your own choice of the books,” in the Uncle Sam ad. of the Boston American of September 12? A. No. 2580

Q. 48. Please look at a number of other advertisements in the Boston American for September, 1910, of different dates and see if you find any such phrase running through the advertisements. If so, point out the advertisement and the date and quote the language. A. In the advertisement of September 2, 1910, page 6, of the Boston American, I find:

2581

K. N. Washburn—Direct.

“Here is the description of the three books. Take your choice.”

Q. 49. Is that in display type at the top of the box describing the three styles of binding and books? A. It is.

2582 Q. 50. Do you find the same language similarly displayed in other advertisements in the Boston American of the Webster's Condensed Dictionary?

MR. CARROLL: I object to all this line of examination as irrelevant and immaterial.

2583 MR. HALE: This evidence is offered in rebuttal of evidence offered by Defendant, purporting to show that the Complainant had copied these newspaper advertisements from advertisements of the defendant Syndicate Publishing Company's books, and is offered for the purpose of showing that the shoe is on the other foot, and that advertisements of the Syndicate Publishing Company were in fact copied from the prior advertisements of the Webster's Condensed Dictionary which appeared in the previous year in the Boston American, and which the witness, Murphy, testified were used by the Syndicate Publishing Company's officer and agent, A. L. Swift, in the composition of advertisements for the Syndicate Publishing Company's newspaper campaign in connection with Defendant's book.

2584

MR. CARROLL: The summary of the witness, Murphy's testimony is objected to as not in accordance with the facts, it having appeared from said witness' testimony that he was not in the employ of the Syndicate Publishing Company until at least three weeks after he had testified that the advertisements were prepared, so that he was

obviously not in a position to know how they were prepared or from what source.

A. Exactly similar language is used in a similar way in the Boston American advertisement of Saturday, September 3rd. The same language is in the Boston American of Tuesday, September 6th, 1910, and of various other dates.

Q. 51. In other words, it runs generally through the scheme and plan of the advertisements of the Boston American; is that correct? A. It is. 2586

Q. 52. And placed in association with the description of the three styles in a box? A. It is; the language referred to being the phrase:

“Here is the description of the three books. Take your choice.”

Q. 53. In the advertisements of the Syndicate Publishing Company's book which appear in Complainant's Exhibit, Defendant's advertisements, do you find the language: “Your choice of these three books,” in association with the description of the three styles in a box running through them or similar language, such as: “Take your own choice of these books,” similarly placed? 2587

MR. CARROLL: I object to this line of questioning on the ground that counsel's characterization of the language as similar is improper, and that it is his own conclusion, and that language must necessarily be somewhat similar to express a similar thought. 2588

MR. HALE: The advertisements referred to are in evidence and will speak for themselves. The testimony of the witness is intended merely to assist the court in comparing the various advertisements.

2589

K. N. Washburn—Direct.

MR. CARROLL: Attention of counsel for Complainant is called to the fact that the Boston American advertisements are not in evidence.

MR. HALE: The language contained in the Boston American has been read upon the record so far as relates to the subject of inquiry.

2590

A. I do.

Q. 54. Running through the advertisements of the Webster's Condensed Dictionary as contained in the Boston American for September, 1910, do you find in display type the following language? And I quote from the Uncle Sam ad. of September 12:

"Here is the general contents of Webster's Condensed Dictionary."

2591

A. Yes, I do.

Q. 55. Please look at the advertisements contained in the volume marked "Complainant's Exhibit, Defendant's advertisements," and see whether you find in display type the words: "General contents of Webster's New Standard Dictionary."

2592

MR. CARROLL: I object to this particular question as irrelevant and immaterial on the ground that there is no other way of stating the general contents except by the two words, "General contents," and that those are the only two words which are similar in the advertisements.

A. I do.

Q. 56. Do you find it in each instance followed by descriptive matter descriptive of the contents?

A. I do.

K. N. Washburn—Direct.

2593

Q. 57. Similarly used in the line of Defendant's advertisements and in the line of advertisements in the Boston American; is that correct?

MR. CARROLL: Objected to as calling for a conclusion of the witness, and I move that the answer be stricken out.

A. Yes.

Q. 58. Do you likewise find the language:

2594

"All you need to do is to cut out seven Dictionary coupons of consecutive dates from"

and then specifying the paper, running through the line of Advertisements of Webster's Condensed Dictionary in the Boston American, and the same language running through the advertisements in the Syndicate Company's dictionary which are contained in Complainant's Exhibit, Defendant's advertisements? A. I do; the number of coupons to be cut out varying, however. 2595

MR. HALE: Complainant's counsel now offers in evidence a copy of the Uncle Sam ad. clipped from the Boston American of September 12, 1910, in which counsel has marked with pencil the matter specially referred to by the witness as being similar or identical with matter in the advertisements marked, "Complainant's Exhibit, Defendant's advertisements," and the same is marked, "Complainant's Exhibit, specimen of the advertisements copied by Defendant," and will appear included in the volume marked "Complainant's Exhibit, Defendant's advertisements," immediately following the Pittsburg Post advertisement of February 12, 1911. 2596

MR. CARROLL: I object to statement of

2597

K. N. Washburn—Direct.

counsel for complainant made in offering this exhibit, on the ground that most of the reading matter contained in this exhibit just offered has been compared with only one of the advertisements of the Syndicate Publishing Company's book, namely, the advertisement which appeared in the Pittsburg Post of February 12, 1911, and which was offered in evidence in Chicago on July 12, 1912.

2598

Q. 59. Please compare the Boston American Uncle Sam ad. of September 12, 1910, with the Uncle Sam ad. of the Peoria Star of November 4, 1911, which appears on page 63 of the volume marked, "Complainant's Exhibit, Defendant's advertisements," and say whether you find the same matter reproduced as you did in the case of the Pittsburg Post, designating it. A. The cuts in both instances are almost identical, and I find the similar words in the Peoria Star: "Protection at home or abroad," "The result of good fortune is a knowledge of good English," and so forth, as previously quoted; also the words in a box:

2599

"All you need to do is to cut out six Dictionary coupons of consecutive dates from the Peoria Star and present them with the expense bonus amount set opposite any style," and so forth.

2600

I also find in the box the words in display type, "Take your own choice of these books," followed by a general description of the three styles of binding.

Q. 60. What do you find with reference to this same Uncle Sam ad. in the Los Angeles Times of December 3, 1911, which appears on page 101 of the volume marked "Complainant's Exhibit,

K. N. Washburn—Direct.

2601

Defendant's advertisements"? A. I find the same features last mentioned, and in the same language.

Q. 61. What do you find with reference to the Uncle Sam ad. in the Mobile Item of December 19, 1911, which appears on page 107 of the volume marked "Complainant's Exhibit, Defendant's advertisements"? A. The same general display and language.

2602

By Mr. Carroll:

Q. 62. Do you not find in each one of the advertisements referred to in large display type the word, "Presentation"? A. Yes.

Q. 63. This appears in the advertisements of the Syndicate Publishing Company's book and does not appear in the Boston American advertisements of the Condensed Webster, does it? A. Yes, it does appear in the advertisements of the Syndicate's book and not in the advertisement of the Condensed book.

2603

By Mr. Hale:

Q. 64. Please look at the advertisement of Webster's Condensed Dictionary appearing in the Boston American for September 20th, 1910, on page 6, and say whether or not you find the following language:

"Dictionaries will be sent by mail on receipt of full set of coupons and bonus—together with fifteen cents to pay cost of postage."

2604

A. I do.

By Mr. Carroll:

Q. 65. Do you find in this advertisement any reference to a "Presentation" by the Boston American? A. No.

2605

K. N. Washburn—Direct.

By Mr. Hale:

Q. 66. Do you find that same language in the advertisement on page 6, of the Boston American, September 21, 1910? A. I do.

Q. 67. Please look at the advertisement in the Boston American of September 24, 1910, on page 3, and say whether or not you find the following language:

2606

“These books can be had for a little trouble—cutting seven coupons on seven consecutive days from the American—daily and Sunday—and a small bonus to cover the actual cost of printing and binding.”

And also the following language:

“Dictionaries will be sent by mail on receipt of full set of coupons and bonus.”

2607 A. I do.

Q. 68. Do you find the same reference to a bonus in other advertisements? And I call your attention to that in the Boston American of September 28, 1910, offering the book for coupons and a bonus? A. I find this language in the advertisement in question:

“Dictionaries will be sent by mail on receipt of full set of coupons and bonus together with fifteen cents to pay postage.”

2608

Q. 69. Do you find that the picture or cut of the dictionary running through the Boston American ads. is substantially the same in size, color and place of display as the cut of the Syndicate Company's dictionaries in the advertisements which have been offered in evidence?

MR. CARROLL: Objected to as calling for a conclusion of the witness.

A. I do.

MR. HALE: You may cross-examine.

CROSS-EXAMINATION by Mr. Carroll:

x Q. 70. On your direct testimony you referred to an arrangement which you had with Reilly & Britton. What writings have you in your possession covering that arrangement? A. Private memorandum that I took at the time the arrangement was made, and that took place in our office in Springfield. 2610

x Q. 71. When was that? A. I am not able to fix the exact date. It was sometime I think, as I have already stated, in 1906.

x Q. 72. Have you that memorandum with you? A. I have not.

x Q. 73. Can you remember the contents of it? A. In a general way, yes.

x Q. 74. What were the contents? A. It included the arrangements for manufacturing with the manufacturer, and at the same time a general statement of the arrangement that we made with Reilly & Britton for handling the book. 2611

x Q. 75. Will you give a little more fully the arrangement with the manufacturer and the details of the arrangement with Reilly & Britton? A. Yes. Why, the books are manufactured in Chicago.

x Q. 76. By whom? A. By the George M. Hill Company. They are ordered from the manufacturer. 2612

x Q. 77. By whom? A. By Reilly & Britton, as desired. The manufacturer bills to us as the books are shipped at the price we arranged with the manufacturer to make them, and we then bill to Reilly & Britton at a higher price, at the price agreed upon, and collect from the Reilly & Britton Company.

2613

K. N. Washburn—Cross.

x Q. 78. Is that the whole arrangement? A. It is.

x Q. 79. Does Reilly & Britton give you fixed order or guaranty for a certain number of books? A. They do not.

x Q. 80. Do they take books from you simply to fill their orders? A. They do.

2614 x Q. 81. How did you market Webster's Condensed Dictionary before you made the arrangement with Reilly & Britton which you have just mentioned? A. It was published by the American Book Company and marketed by them.

x Q. 82. You mean that they manufactured it? A. They did.

x Q. 83. They had the custody of the plates? A. They did.

2615 x Q. 84. When you made this arrangement with Reilly & Britton, then you took the plates back from the American Book Company? A. The American Book Company surrendered the plates to us.

x Q. 85. You all the time kept title to the plates, did you? A. We did.

x Q. 86. And do still? A. We do.

x Q. 87. Do you remember the visit of Mr. A. L. Swift to the office of the G. & C. Merriam Company in Springfield in October, 1911? A. I don't remember the date. I remember he came there last fall.

2616 x Q. 88. Don't you remember that he discussed with you at that time the newspaper campaign which had been carried on in various cities in connection with Webster's Condensed Dictionary? A. I don't recall it at all.

x Q. 89. Don't you remember that at that time he told you that Murphy had formerly been in the employ of the Syndicate Publishing Company?

MR. HALE: The question is objected to on

the ground that Mr. Swift has not testified that he made any such statement in that conversation. The question assumes a fact that has not gone in evidence.

MR. CARROLL: I am simply trying to refresh the recollection of this witness.

A. He may have done so; I do not recall it.

x Q. 90. What knowledge did you have of the newspaper campaign which was being carried on in connection with the Merriam Condensed Webster in the newspapers? A. I had very little knowledge of it. 2618

x Q. 91. You knew that such a campaign was going on, I suppose? A. Yes.

x Q. 92. You from time to time saw the advertisements, I suppose? A. Not until after this controversy arose, unless I by chance saw advertisements that appeared in the Boston American, but I have no recollection of having seen any of those advertisements. 2619

x Q. 93. What relation did you have to the campaign carried on in the Boston American? A. We had no relation to it. The arrangement was made entirely by Reilly & Britton. We had nothing to do with it.

x Q. 94. Who prepared the advertisements which you have referred to in the Boston American? A. I have no knowledge.

x Q. 95. Are they copyrighted? A. I know nothing about it. 2620

x Q. 96. You make no claim, then, that the advertisements were prepared by the G. & C. Merriam Company and copyrighted by them? A. We have not thought of making such a claim.

x Q. 97. How did you get such an intimate knowledge of the advertisements of the Boston American? A. By looking at the advertisements recently.

2621

K. N. Washburn—Re-direct.

By Mr. Hale:

x Q. 98. Do you mind saying when you looked at them? A. Today.

x Q. 99. While you were on the stand? A. And before.

x Q. 100. Have you looked at most of the advertisements contained in the Boston American? A. I have looked at a great many of them.

2622

x Q. 101. Are the apparent similarities which you have pointed out, that is to say, the so-called Uncle Sam ad. advertisement and the phrases which appear in that, and the descriptive phrases, such as, "Take your choice," and "General contents of dictionary," and, "All you need to do is to cut six coupons," etc., which run through other advertisements, all of the apparent similarities which you discovered? A. I don't recall any others.

2623

MR. CARROLL: I think that is all.

RE-DIRECT EXAMINATION by Mr. Hale:

Re-D. Q. 102. The private memorandum which you made of your arrangement with Reilly & Britton Company was an unsigned memorandum made by yourself merely for your own recollection of the circumstances, is that correct? A. It was.

2624

Re-D. Q. 103. Mr. Carroll asked you whether Reilly & Britton ordered books simply to fill their orders, and you answered simply yes. Just what did you mean? A. I meant that when they needed books for any purpose, that they had them shipped to them from the bindery.

Re-D. Q. 104. And that is all that you meant by that answer? A. Yes.

Re-D. Q. 105. You have spoken about the Webster's Condensed Dictionary having been at one time published by the American Book Company. What was the nature of that arrangement? A.

They published the book under royalty contract with us.

Re-D. Q. 106. By which you virtually leased them the plates? A. Yes.

Re-D. Q. 107. And the Merriam name appeared in the publisher's imprint? A. It did.

Re-D. Q. 108. And the Merriam Company owned the books and the copyright? A. Yes.

Re-D. Q. 109. Mr. Carroll asked you whether the language quoted from advertisements of the Syndicate Publishing Company's book and from advertisements of the Webster's Condensed Dictionary in the Boston American were all the similarities which you noticed between the two lines of advertisements, and you answered you recalled no others. What did you notice in respect to the general similarities including cut of the book, the display, the plan of the advertisements, and the general description of the scheme? 2626

MR. CARROLL: I object to that question as calling for a conclusion of the witness and as being obviously incompetent, irrelevant and immaterial. 2627

A. There was a general similarity between the advertisements of the Syndicate Publishing Company and those appearing in the Boston American.

MR. HALE: That is all.

2628

RE-CROSS EXAMINATION by Mr. Carroll:

Re-x Q. 110. What do you mean by "general similarity"? A. The matter of display.

Re-x Q. 111. You mean they both used full page display advertisements, and that both sold the dictionary in connection with coupons cut from the paper? A. Yes.

Re-x Q. 112. Do you refer to any other simil-

2629

K. N. Washburn—Re-cross.

arity except those already mentioned? A. I think there was a general similarity in the matter of display.

Re-x Q. 113. Will you please point out such similarity? A. The similarities mentioned are all that I can point out.

2630

Re-x Q. 114. Will you please give a list of the books which you are now marketing under the name "Webster" to-day, and the usual retail price of those books? A. I don't think I can do that offhand.

MR. HALE: Unless the witness can accurately do so, I object to his attempting to guess, especially as this is not proper cross-examination and amounts to the introduction of new evidence in chief by Defendant.

2631

MR. CARROLL: It is simply supplementary evidence and is proper cross-examination.

2632

A. I can't remember offhand, but I produce a list of the books which we now sell, with the prices. The books under the heading, "Special Series," which appear upon the last page of the leaflet produced, are handled exclusively by Reilly & Britton and the leaflet indicates that fact by stating that the correspondence concerning those special series should be addressed to Reilly & Britton, selling agents, at Chicago, Illinois.

By Mr. Hale:

Re-x Q. 115. You don't mean by the production of this list to say that Reilly & Britton, sell the Webster's Condensed Dictionary as agent for G. & C. Merriam Company? A. No.

Re-x Q. 116. The true fact is as already stated by you in your testimony? A. It is.

Re-x Q. 117. Are Reilly & Britton your selling

K. N. Washburn—*Re-cross.*

2633

agents for any of your other publications? A. They are selling agents for the Webster's Unabridged Dictionary.

The list produced by the witness is as follows:

First Page. LIST OF PUBLICATIONS WITH PRICES. The Merriam Series. G. & C. Merriam Co. For Over 68 Years Publishers of the Genuine Webster's Dictionaries. Springfield, Mass., U. S. A.

2634

Second Page. WEBSTER'S NEW INTERNATIONAL DICTIONARY. The Merriam Webster. A New Creation. 400,000 Words and Phrases. 2,700 Pages. 6,000 Illustrations. Editor in Chief, W. T. Harris, Ph.D., L.L.D., for seventeen years United States Commissioner of Education.

<i>Styles of Binding</i>	<i>Net Prices</i>
Sheep, marble edge, indexed.....	\$12.00
Cloth, 2 volumes, indexed	12.00
Sheep, 2 volumes, marble edge, indexed..	14.00
Half Morocco, marble edge, indexed....	14.50
Half Russia, marble edge, indexed.....	14.50
Full Russia, marble edge, indexed.....	17.50
Full Morocco, vermillion edge, indexed..	18.00
Full Morocco, gilt edge, indexed.....	20.00

2635

No extra charge for complete reference index, which is included in the above prices.

2636

WEBSTER'S INTERNATIONAL DICTIONARY
(Old Edition).

Sheep, marble edge, indexed.....\$10.75

THE INTERNATIONAL IS THE ONE GREAT
STANDARD AUTHORITY.

It is the Standard of the Federal and State

2637

K. N. Washburn—Re-cross.

Courts. The Standard of the Government Printing Office. The basis of nearly all the school-books in the country. Indorsed by every State School Superintendent. Universally recommended by Statesmen, College Presidents, Educators, and Authors. Adhered to as Standard by over 99% of the Newspapers.

THE ABOVE CANNOT BE SAID OF ANY OTHER BOOK.

2638

Third Page.

WEBSTER'S COLLEGIATE DICTIONARY

Octavo, 1136 Pages, 1400 Illustrations.

Recently issued. Size 7 x 10 x 2-5/8 inches. The largest of the several abridgements of the International. Contains a valuable pronouncing Glossary of Scottish Words and Phrases.

Cloth, with complete reference index \$3.00

2639 Sheep, marble edge, with complete reference index 4.00

Half Morocco, red edge, with complete reference index 5.00

A SPECIAL THIN PAPER EDITION DELUXE

of the Collegiate has also been issued. It is printed on bible paper, from the same plates as the regular edition. Very attractively bound—limp boards, round corners. Size 5 3/4 x 8 5/8 x 1 1/2 in.

2640 Art Canvas, dark blue, gilt stamps, marble edge, indexed \$3.50

Full Seal, rich dark brown, gilt stamps, full gilt edge, indexed 5.00

WESTER'S LITTLE GEM DICTIONARY.

The Most Complete of Pocket Manuals. 224 Pages carefully selected Vocabulary, also Ga-

zetteer of the World, many valuable tables and 16 pages of Colored Maps.

Dark Green Cloth, red edge, indexed..... 25¢

Full Leather, gold edge, indexed..... 50¢

WEBSTER'S NATIONAL PICTORIAL DICTIONARY

Octavo, 1,100 Pages, 600 Illustrations. Sheep, marble edge, without complete reference index, reduced to \$3.00. 2642

LAW BOOKS

Chitty on Pleadings, 2 vols., from English edition thoroughly revised and Americanized, with notes and references, by Hon. J. C. Perkins, L.L.D..... \$16.00

Chitty on Bills. Edited by Hon. J. C. Perkins, L.L.D..... 8.00 2643

Fourth Page.

SPECIAL SERIES.

WEBSTER'S UNABRIDGED DICTIONARY.

The best large English dictionary extant until the publication of the first INTERNATIONAL. 1795 Quarto Pages, 3,000 Illustrations.

Regular Edition, full sheep, indexed..... \$5.00 2644

Special Edition, full sheep, indexed..... 4.00

Special Edition, cloth, indexed..... 2.50

WEBSTER'S CONDENSED DICTIONARY.

46,297 Words. 1,500 Illustrations.

Extra cloth, marble edge, indexed $7\frac{3}{4} \times 5\frac{3}{4}$ x $1\frac{3}{4}$ in. \$1.25

Half Morocco, marble edge, indexed, $7\frac{3}{4} \times 5\frac{3}{4}$ x $1\frac{3}{4}$ in. 1.50

2645

K. N. Washburn—Re-cross.

WEBSTER'S PRACTICAL DICTIONARY.

31,465 Words. 1,200 Illustrations.

- Ideal Edition, extra cloth, marble edge, size
 $7\frac{1}{4} \times 5\frac{1}{4} \times 1\frac{1}{4}$ in. 80¢
 Concise Edition, extra cloth, marble edge, size
 $7\frac{1}{4} \times 5\frac{1}{4} \times 1$ in. 65¢
 Popular Edition, durable cloth, marble edge,
 size $7\frac{1}{4} \times 5 \times 1$ in. 40¢

2646

Correspondence concerning this special series
 should be addressed to REILLY & BRITTON,
 Selling Agents, 258 and 260 Wabash Ave., Chi-
 cago, Ill.

CAUTION: The Genuine Series of Webster's
 Dictionaries can be identified by a circular trade-
 mark on the front cover, or by our name on the
 title-page.

2647

BEWARE of cheap reprints of the Webster's
 Unabridged of 1847 and of un- New
 authorized and unreliable issues International
 of smaller dictionaries, also of Dictionary
 larger so-called Webster dictionaries not of the
 genuine Webster series.

GET THE LATEST and BEST.

2648

STIPULATION.

2649

It is hereby stipulated that at any time within thirty days from this date counsel for Complainant may indicate to counsel for Defendant any books which he considers identical or substantially identical in literary contents with any books which have been offered in evidence by counsel for Defendant. When the name of such books shall have been so given, said books shall be deemed in evidence as though offered at a regular hearing and may be used in argument at the final hearing, and all subsequent proceedings in the case, subject to all objections on the ground of relevency, competency and materiality, but no objection is to be made upon the ground that the same were not regularly produced and marked in evidence. 2650

It is also hereby stipulated that any dictionary containing the name "Webster" in its title, and bearing the imprint of Reilly & Britton or the American Book Company, which has been referred to in the testimony, may be deemed in evidence as one of Defendant's exhibits, subject to the above restrictions. 2651

[Complainant's case in rebuttal is now closed, and Complainant rests.]

2652

2653 **Notice Offering Dictionary Exhibits Pursuant to Stipulation.**

IN THE DISTRICT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

2654 G. & C. MERRIAM COMPANY,
Complainant,

VS

CUPPLES & LEON CO.,
Defendant.

In Equity
No. 8—161.

2655 G. & C. MERRIAM COMPANY,
Complainant,

VS

THE SYNDICATE PUBLISHING COM-
PANY,
Defendant.

In Equity
No. 8—162.

Sirs:

2656 PLEASE TAKE NOTICE that pursuant to the stipulation of July 18th, 1912, entered upon the record, complainant claims that the hereinafter named dictionaries are identical, or substantially identical in literary contents, with certain dictionaries offered in evidence by the defendants, and as hereinafter more particularly specified, to wit:

1. The following four dictionary exhibits of defendants, to wit:

“Webster’s Library Dictionary,” published by M. A. Donohue & Co., copyright date, 1911;

Notice Offering Dictionary Exhibits Pursuant to Stipulation. 2657

"*Webster's Business & College Dictionary*," published by W. B. Conkey Co., copyright date 1911.

"*Webster's Modern Dictionary*," published by L. W. Walter Co., copyright dates, 1907 and 1908; and

"*Webster's American Standard Dictionary*," published by Commonwealth Publishing Co., copyright date, 1909, 2658

are substantially one and the same book and apparently printed from the same, or a duplicate set of plates, with only slight and immaterial, if any, variations in prefatory and supplementary matter. Each of these four dictionary exhibits of defendants is substantially identical with and apparently printed from the same plates as a dictionary produced herewith and hereby offered in evidence entitled, "*Donohue's Standard New Century Dictionary*" published by M. A. Donohue & Co., copyright date, 1905, in connection with which the name "*Webster*" does not appear. 2659

2. Defendants' Exhibit, "*Webster's Universal Self-Pronouncing Dictionary*" published by John C. Winston Co., copyright dates, 1911 and 1908, is substantially identical with and a reprint of "*The Crown Dictionary*," "*The Students' Imperial Dictionary*" and "*The British Empire Dictionary*," which last three books have been heretofore offered in evidence by complainant, and is likewise substantially identical with the books of the defendants which are involved in these cases. This Winston edition of this book contains a small per cent. of additional words and definitions in the vocabulary, but is mainly identical with the "*Crown Dictionary*" as above stated. 2660

2661 *Notice Offering Dictionary Exhibits Pursuant to Stipulation.*

3. Defendants' Exhibit, "*Webster's School & Office Dictionary*" published by Thompson & Thomas, copyright dates, 1901, 1903 and 1905, is substantially identical, and apparently printed from the same, or a duplicate set of plates as a book herewith produced and offered in evidence entitled "*The Complete Compendium of Universal Knowledge Containing All you Want to Know of Language, History, Government, Business and Social Forms, etc.*" by William Rawlston Baleh, published by Franklin Square Bible House, copyright date, 1891, Cover Title, "The Complete Compendium" in connection with which the name "Webster" nowhere appears.

4. Defendants' Exhibit, "*Hurst's Webster's Dictionary*" published by Hurst & Co., copyright dates, 1879 and 1882, is substantially the same identical dictionary as the following described dictionaries herewith produced and offered in evidence, the title pages of which are as follows:

- "The American Standard Dictionary containing all needed words that are to be found in the English language, with the exact definition, proper spelling and true pronunciation as given by the greatest Lexicographers, Webster, Worcester, Johnson, etc.," published by Hurst & Co., copyright notice 1881, by Hurst & Co.

- "The American Unabridged Dictionary containing all needed words that are to be found in the English language with the exact definition, proper spelling and true pronunciation as given by the greatest lexicographers," etc., copyright notice dated 1881 by Hurst & Co.

- "The American Popular Dictionary con-

Notice Offering Dictionary Exhibits Pursuant to Stipulation. 2665

taining every useful word in the English language with its correct spelling, accurate pronunciation and exact meaning according to Webster and other authorities," etc., published by Hurst & Co. dated 1882, copyright notices by Hurst & Co. dated 1879 and 1882.

"The Handy Reliable Dictionary of the English language, a comprehensive lexicon for the million based on the labors of Webster and other American and English authorities" published by Hurst & Co., copyright notice dated 1891 by Hurst & Co. 2666

"Hansell's Practical Illustrated Pronouncing Pocket Dictionary of the English language based on the labors and principles of Webster and other authorities," etc., published by F. F. Hansell & Bro., dated 1886, copyright notice by F. F. Hansell dated 1886. 2667

"The American Diamond Pronouncing Dictionary of the English language, the orthography, definition and pronunciation based on the principles of the best American and English Lexicographers," etc., published by Hurst & Co., copyright notice by Hurst & Co., dated 1878. 2668

All of the above dictionaries are apparently printed from the same or a duplicate set of plates and they are the same book, notwithstanding their various different names.

5. Defendants' Exhibit, "*Webster's Pronouncing Dictionary of the English Language*" by F. Tennyson Neely, dated 1895 and without any copyright notice, is the same identical dictionary as three other dictionaries herewith produced and now offered in evidence, and entitled respectively as follows:

2669 *Notice Offering Dictionary Exhibits Pursuant to Stipulation.*

"*Craig's Dictionary.*" "A pronouncing dictionary of the English language, based upon the works of Webster, Worcester, Walker, Johnson, Latham, Smart," etc., dated 1882, copyrighted by Charles H. Craig.

2670 "*The Excelsior Dictionary of the English Language.* Spelling, Pronunciations and Definitions According to the Authority of Webster and other American and English Lexicographers," etc., published by C. C. Parker, dated 1883, copyright notice by DeWolfe, Fiske & Co., dated 1883.

"*The Popular American Dictionary*" on the basis of Webster, Worcester, Johnson and the Most Eminent English and American Authorities," etc., published by Belford, Clark & Co., dated 1886.

2671 Defendants' said exhibit and the last three named books are apparently printed from the same plates or a duplicate set thereof.

The dictionaries above referred to and offered in evidence are marked respectively as follows:

"Complainant's Exhibit, Donohue's Standard New Century Dictionary."

"Complainant's Exhibit, Balch's Complete Compendium."

2672 "Complainant's Exhibit, Hurst's American Standard Dictionary."

"Complainant's Exhibit, Hurst's American Unabridged Dictionary."

"Complainant's Exhibit, Hurst's American Popular Dictionary."

"Complainant's Exhibit Hurst's Handy Reliable Dictionary."

"Complainant's Exhibit, Hurst's American Diamond Dictionary."

Notice Offering Dictionary Exhibits Pursuant to Stipulation. 2673

"Complainant's Exhibit, Hansell's Practical Dictionary."

"Complainant's Exhibit, Craig's Dictionary."

"Complainant's Exhibit, New Excelsior Dictionary."

"Complainant's Exhibit, Popular American Dictionary." 2674

Inspection of the said dictionaries is hereby tendered and may be had at all times in accordance with the stipulation between counsel in regard to exhibits heretofore entered of record.

Dated, New York City, August 2nd, 1912.

Yours, etc.,
JUDSON & HALE,
Solicitors for Complainant,
Office & Post Office Address, 2675
No. 40 Wall Street,
New York City,
Borough of Manhattan.

To

Messrs. GOULD & WILKIE,
Solicitors for defendant Cupples & Leon Co.,
Office & Post Office Address,
No. 2 Wall Street, New York City,
Borough of Manhattan.

Messrs. STRONG & CADWALADER, 2676
Solicitors for defendant,
The Syndicate Publishing Co.,
Office & Post Office Address,
No. 40 Wall Street, New York City.
Borough of Manhattan.

2677 *Notice Offering Dictionary Exhibits Pursuant to Stipulation.*

Copy of the above Notice Offering Dictionary Exhibits Pursuant to Stipulation received this 2nd day of August, 1912.

GOULD & WILKIE,
STRONG & CADWALADER,
Counsel for defendants, Cup-
ples & Leon Co. and Syn-
dicate Publishing Com-
pany.

2678

2679

2680

Title Pages and Covers.

2681

A

COMPENDIOUS DICTIONARY

of the

ENGLISH LANGUAGE.

(Descriptive matter omitted by consent.)

2682

By NOAH WEBSTER, Esq.

FROM SIDNEY'S PRESS.

FOR HUDSON & GOODWIN, BOOK-SELLERS,

HARTFORD, AND INCREASE COOKE & CO.,

BOOK-SELLERS, NEW HAVEN.

1806.

2683

(Legend on back of the above dictionary)

WEBSTER'S DICTIONARY.

(Notice of copyright by Noah Webster, dated 1806.)

2684

2685

Complainant's Exhibits.

AN

AMERICAN DICTIONARY

of the

ENGLISH LANGUAGE:

2686

(Descriptive matter omitted by consent.)

BY NOAH WEBSTER, LL. D.

IN TWO VOLUMES.

VOL. I.

2687 He that wishes to be counted among the benefactors of posterity, must add, by his own toil, to the acquisitions of his ancestors.—RAMBLER.

NEW YORK:

PUBLISHED BY S. CONVERSE.

Printed by Hezekiah Howe—New Haven.

1828.

2688

(Legend on back of above dictionary)WEBSTER'S DICTIONARY.

(Notice of copyright by Noah Webster, dated 1828.)

Title Pages and Covers.

2689

AN
AMERICAN DICTIONARY
of the
ENGLISH LANGUAGE:

Exhibiting the
Origin, Orthography, Pronunciation, And
Definitions of Words

2690

BY NOAH WEBSTER, LL. D.

Abridged From The Quarto Edition Of The Author:
To Which Are Added, A

SYNOPSIS OF WORDS

Differently Pronounced By Different Orthoepists;
and

WALKER'S KEY

2691

to the

Classical Pronunciation Of Greek, Latin, And
Scripture Proper Names.

—————
Fifteenth Edition.

—————
New York:
Published By N. & J. White.
Printed By E. Sanderson,
Elizabethtown, N. J.
1838.

2692

—————
(Legend on back of above dictionary)
WEBSTER'S DICTIONARY.

—————
(Notices of copyright (2) by Webster and Worcester
jointly, dated 1829.)

2693

Complainant's Exhibits.

2694

A
 DICTIONARY
 of the
 ENGLISH LANGUAGE:
 Abridged from the
 AMERICAN DICTIONARY,
 For the use of
 PRIMARY SCHOOLS AND THE COUNTING HOUSE.

 BY NOAH WEBSTER, LL. D.

Thirteenth Edition.

NEW-YORK.

2695

Published By N. & J. White, 108 Pearl Street.

Sold also by Webster and Skinner, Albany; Richardson,
 Lord, and Holbrook, Boston; Kimber and Sharpless,
 and Tower and Hogan, Philadelphia; Cushing
 and Sons, Baltimore, D. F. Robinson and Co.,
 Hartford; O. Steele, Albany; Steele and
 Faxon, Buffalo; Hogan and Co.,
 Pittsburg; J. N. Whiting,
 Columbus, O.

2696

 Stereotyped at E. White's Type and Stereotype Foundry.

1833.

 (Legend on back of above dictionary)
 WEBSTER'S DICTIONARY.

 (Notice of copyright by Noah Webster, dated 1828.)

Title Pages and Covers.

2697

A
DICTIONARY
FOR
PRIMARY SCHOOLS

BY NOAH WEBSTER, LL. D.

2698

NEW YORK
Published by F. J. Huntington and Co.
No. 174 Pearl Street.

1839

2699

(Legend on back of above dictionary)
WEBSTER'S DICTIONARY.

(Notice of copyright by Noah Webster, dated 1833.)

2700

2701

Complainant's Exhibits.

AN
AMERICAN DICTIONARY
of the
ENGLISH LANGUAGE:

First Edition in Octavo,

Containing

2702 The Whole Vocabulary of the Quarto, With Correotions,
Improvements, and Several Thousand Additional
Words:

To Which is Prefixed

AN INTRODUCTORY DISSERTATION

on the

Origin, History and Connection of the Languages of
Western Asia and Europe,

With an Explanation

Of The Principles On Which Languages Are Formed.

2703

BY NOAH WEBSTER, LL. D.

(Descriptive matter omitted by consent.)

(This edition contains a supplement by the author, of several thousand words, and published after his decease.)

IN TWO VOLUMES.

VOL. I.

2704

AMHERST, MASS.

Published by J. S. and C. Adams.

Sold by Little & Brown, Boston; Leavitt, Trow & Co.,
New York; Thomas, Cowperthwait & Co., Philadelphia;
Brown & Parsons, Hartford.

1844.

(Legend on back of the above dictionary)

WEBSTER'S DICTIONARY

VOL. I

A.-I.

(Notice of copyright by Noah Webster, dated 1840.)

Title Pages and Covers.

2705

AN
AMERICAN DICTIONARY
of the
ENGLISH LANGUAGE:

Containing

The Whole Vocabulary of the First Edition in Two Volumes Quarto; the Entire Corrections and Improvements of the Second Edition in Two Volumes
Royal Octavo;

2706

To Which is Prefixed

AN INTRODUCTORY DISSERTATION
on the

Origin, History, and Connection, of the Languages of
Western Asia and Europe, With an Explanation
Of the Principles on Which Languages are Formed.

BY NOAH WEBSTER, LL. D.

2707

(Matter omitted by consent.)

REVISED AND ENLARGED,

By Chauncey A. Goodrich,
Professor in Yale College.

With Pronouncing Vocabularies of Scripture, Classical,
and Geographical Names.

SPRINGFIELD, MASS.

2708

PUBLISHED BY GEORGE AND CHARLES MERRIAM,
Corner of Main and State Streets.

1850

(Legend on back of above dictionary)
WEBSTER'S DICTIONARY.

(Notices of copyright by Noah Webster, dated 1840, and
by George and Charles Merriam, dated 1847.)

2709

Complainant's Exhibits.

ACADEMIC EDITION.

A DICTIONARY

of

THE ENGLISH LANGUAGE;

Abridged from the American Dictionary,

2710

By Noah Webster, LL. D.

Revised Edition.

CONTAINING SEVERAL THOUSAND ADDITIONAL
WORDSFrom the last edition of the larger work; important
etymologies, rules for the orthography and pronun-
ciation of words; the accented vocabularies of

WALKER'S KEY

2711

To the classical pronunciation of Greek, Latin, and
Scripture proper names.

With A Memoir Of The Author.

New Edition,

With additions and improvements, including a copious
GEOGRAPHICAL VOCABULARY.

NEW YORK:

2712

PUBLISHED BY MASON BROTHERS,

108 & 110 Duane Street.

1856.

(No legend on back of the above dictionary as back was
torn off.)

(Notices of copyright by Webster's Exrs., dated 1850,
and by George and Charles Merriam, dated 1856.)

Title Pages and Covers.

• 2713

AN
EXPLANATORY AND PRONOUNCING
DICTIONARY
of
THE ENGLISH LANGUAGE.

2714

WITH SYNONYMS.

Abridged from the American Dictionary of
NOAH WEBSTER, LL.D

BY WILLIAM G. WEBSTER,
Assisted by
Chauncey A. Goodrich, D.D.

2715

WITH NUMEROUS USEFUL TABLES.

NEW YORK:
MASON BROTHERS.
Springfield, Mass.: G. & C. Merriam.
1857.

2716

(Legend on back of above dictionary.)
WEBSTER'S COUNTING HOUSE
and
FAMILY DICTIONARY.

(Notice of copyright by George and Charles Merriam,
dated 1856.)

2717 .

Complainant's Exhibits.

A

HIGH SCHOOL

Pronouncing

DICTIONARY

2718

of the

ENGLISH LANGUAGE

Abridged from the

AMERICAN DICTIONARY

of

NOAH WEBSTER, LL. D.

2719 With accented vocabularies of classical, scripture, and
modern geographical names.

BY WILLIAM G. WEBSTER.

NEW YORK:
PUBLISHED BY MASON BROTHERS,
108 & 110 Duane Street.
1856.

2720

(Legend on back of above dictionary.)
WEBSTER'S HIGH SCHOOL DICTIONARY.

(Notices of copyright by Webster's Exrs., dated 1848,
and by George and Charles Merriam, dated 1856.)

Title Pages and Covers.

2721

Containing 10,000 more words than Walker's Dictionary.

A PRIMARY SCHOOL

Pronouncing

DICTIONARY

2722

of the

ENGLISH LANGUAGE

Abridged from the

AMERICAN DICTIONARY

By

NOAH WEBSTER, LL. D.

2723

With accented vocabularies of Classical, Scripture, and
modern geographical names.

BY WILLIAM G. WEBSTER.

NEW YORK:
PUBLISHED BY MASON BROTHERS,
108 & 110 Duane Street.
1856.

2724

(Legend on back of above dictionary)
WEBSTER'S SCHOOL DICTIONARY.

(Notices of copyright by Webster's Exrs., dated 1848,
and by George and Charles Merriam, dated 1856.)

2725

Complainant's Exhibits.

AN

EXPLANATORY AND PRONOUNCING
DICTIONARY

of

2726

THE ENGLISH LANGUAGE

With Synonyms.

Abridged from the American Dictionary of
NOAH WEBSTER, LL. D.

BY WILLIAM G. WEBSTER,

Assisted by

2727

Chauncey A. Goodrich, D.D.

With Numerous Useful Tables.

New York.

MASON BROTHERS.

Springfield, Mass.: G. & C. Merriam.

1857.

2728

(Legend on the back of above dictionary)
WEBSTER'S DICTIONARY.

(Notice of copyright by George and Charles Merriam,
dated 1856.)

Title Pages and Covers.

2729

REVISED EDITION.

A

HIGH — SCHOOL
PRONOUNCING DICTIONARY
of

2730

The English Language.

Abridged From The American Dictionary Of
NOAH WEBSTER, LL. D.

BY WILLIAM G. WEBSTER.

With Numerous Tables.

2731

New York:
MASON BROTHERS,
108 & 110 Duane Street.
Springfield, Mass.: G. & C. Merriam.

1857.

(Legend on the back of above dictionary)
WEBSTER'S HIGH SCHOOL DICTIONARY

2732

Revised Edition.

(Notice of copyright by George and Charles Merriam,
dated 1857.)

2733

Complainant's Exhibits.

AN
AMERICAN DICTIONARY
of the
ENGLISH LANGUAGE;
Containing

The Whole Vocabulary Of The First Edition In Two Volumes Quarto;
The Entire Corrections And Improvements Of The Second Edition
In Two Volumes Royal Octavo;

2734

To Which Is Prefixed

AN INTRODUCTORY DISSERTATION

On The Origin, History, And Connection, Of The Languages Of Western
Asia And Europe, With An Explanation Of The Principles On Which
Languages Are Formed.

By NOAH WEBSTER, LL. D.,

(Descriptive matter omitted by consent.)

2735

REVISED AND ENLARGED,
By Chauncey A. Goodrich,
Professor in Yale College.

With Pronouncing Vocabularies of Scripture, Classical, and Geographical
Names.

To Which Are Now Added
PICTORIAL ILLUSTRATIONS,

Tables of synonyms, peculiar use of words and terms in the Bible, appendix
of new words, pronouncing table of names of distinguished persons,
abbreviations, Latin, French, Italian, and Spanish phrases, etc.

2736

SPRINGFIELD, MASS.

PUBLISHED BY GEORGE AND CHARLES MERRIAM
Corner of Main and State Streets.

1860.

(Legend on back of above dictionary)

WEBSTER'S DICTIONARY

Unabridged.

Pictorial Edition, 1500 Illustrations.

(Notice of copyright by Noah Webster, dated 1840; by
G. & C. Merriam, dated 1847; by Webster's children,
dated 1856; and by G. & C. Merriam, dated 1859.)

Title Pages and Covers.

2737

AN
AMERICAN DICTIONARY
of the
ENGLISH LANGUAGE;
Exhibiting

THE ORIGIN, ORTHOGRAPHY, PRONUNCIATION,
AND DEFINITIONS OF WORDS.

2738

BY NOAH WEBSTER, LL. D.

Abridged from the quarto edition of the author.

To which is added a

SYNOPSIS OF WORDS

Differently Pronounced By Different Orthoepists.

Revised and Enlarged by
CHAUNCEY A. GOODRICH,
Professor in Yale College.

2739

With Synonyms,

Pronouncing Vocabularies of Scripture, Classical, And
Geographical Names.

And An Appendix of Over 10,000 New Words.

Philadelphia:

J. B. Lippincott & Co.
1876.

2740

(Legend on back of above dictionary)

WEBSTER'S ROYAL OCTAVO DICTIONARY.

With 10,000 New Words.

(Notices of copyright by Webster and Worcester, dated 1829; by Chauncey Goodrich, dated 1847; by Webster's children, dated 1857; and by G. & C. Merriam, dated 1860.)

2741

Complainant's Exhibits.

AN

AMERICAN DICTIONARY

of the

ENGLISH LANGUAGE;

2742

By

NOAH WEBSTER, LL. D.

THOROUGHLY REVISED, AND GREATLY ENLARGED AND
IMPROVED,

By

Chauncey A. Goodrich, D.D., LL.D.

Late Professor of Rhetoric and Oratory, and also Pro-
fessor of the Pastoral Charge, in Yale College,

2743

and

NOAH PORTER, D.D.,

Clark Professor of Moral Philosophy and Metaphysics in
Yale College.

SPRINGFIELD, MASS.:

PUBLISHED BY G. & C. MERRIAM, STATE STREET.
1864.

2744

(Legend on back of the above dictionary)
WEBSTER'S DICTIONARY UNABRIDGED.(Notices of copyright by G. & C. Merriam, dated 1864,
1859, 1847; by Webster's children, dated 1856; by
Noah Webster, dated 1840.)

A

PRIMARY SCHOOL DICTIONARY

of the

ENGLISH LANGUAGE;

Explanatory, Pronouncing, and Synonymous. 2746
 With an Appendix containing various useful Tables.
 Mainly Abridged From The Latest Edition Of The
 American Dictionary of

NOAH WEBSTER, LL. D.

By

WILLIAM G. WEBSTER

and

WILLIAM A. WHEELER. 2747

Illustrated with more than Two Hundred Engravings on
 Wood.

(N. W. in monogram & wreath)

IVISON, BLAKEMAN, TAYLOR & CO.
 New York and Chicago.

Philadelphia: J. B. Lippincott & Co. Cincinnati: Wil-
 son, Hinkle & Co. Springfield, Mass. G. & C. 2748
 Merriam.

1872.

(Legend on back of above dictionary)

WEBSTER'S PRIMARY DICTIONARY
 Revised Ed.

(Notice of copyright by G. & C. Merriam, dated 1867.)

2749

*Complainant's Exhibits.*ACADEMIC EDITION.

A

DICTIONARY

of the

2750

ENGLISH LANGUAGE;

Explanatory, Pronouncing, Etymological,
and Synonymous.

With An Appendix Containing Various Useful Tables.

Mainly Abridged From The Latest Edition Of The
Quarto Dictionary Of

2751

NOAH WEBSTER, LL. D.

By WILLIAM G. WEBSTER

and

WILLIAM A. WHEELER.

Illustrated with more than Three Hundred and Fifty
Engravings on Wood.

(N. W. in monogram & wreath)

2752

NEW YORK .. CINCINNATI .. CHICAGO
AMERICAN BOOK COMPANY
Springfield, Mass.: G. & C. Merriam & Co.

(Legend on back of the above dictionary)
WEBSTER'S ACADEMIC DICTIONARY
Illustrated.

(Notice of copyright by G. & C. Merriam, dated 1867.)

Title Pages and Covers.

2753

THE
ARMY AND NAVY
POCKET DICTIONARY

(Cut of flag)

2754

By William G. Webster.

Revised Edition.

New York.

Iverson, Phinney, Blakeman & Co.

Philadelphia: J. B. Lippincott & Co. Cincinnati: 2755

Sargent, Wilson & Hinkle. Chicago:

S. C. Griggs & Co.

1867.

G. & C. Merriam, Springfield, Mass.

(Legend on back of above dictionary)

2756

WEBSTER'S ARMY & NAVY DICTIONARY.

(Notices of copyright by George, Charles, and Homer
Merriam, dated 1863, 1864 and 1867.)

2757

Complainant's Exhibits.

A

DICTIONARY

of the

ENGLISH LANGUAGE;

Explanatory, Pronouncing, Etymological,
and Synonymous,

2758

WITH A COPIOUS APPENDIX.

Mainly Abridged From The Quarto Dictionary
of

NOAH WEBSTER, LL. D.

As Revised By
Chauncey A. Goodrich, D. D.
and
Noah Porter, D.D.

2759

By WILLIAM A. WHEELER.
WITH A BIOGRAPHICAL SKETCH OF DR. WEBSTER,
and
A PICTORIAL REPRESENTATION OF HIS BIRTHPLACE.Illustrated by more than
Six Hundred Engravings on Wood.(N. W.—in wreath)
(in monogram)

Springfield, Mass.

2760

PUBLISHED BY G. & C. MERRIAM & Co.
1883.

(Legend on back of above dictionary)
WEBSTER'S PEOPLE'S DICTIONARY
SUBSCRIPTION EDITION
ILLUSTRATED

(Notice of copyright by George, Charles and Homer
Merriam, dated 1867.)

Title Pages and Covers.

2761

COUNTING HOUSE EDITION.

A

DICTIONARY

of the

ENGLISH LANGUAGE;

2762

Explanatory, Pronouncing, Etymological,
and Synonymous.

With an Appendix containing commercial and other useful tables. Mainly abridged from the latest edition of the quarto dictionary of

NOAH WEBSTER, LL. D.,

By WILLIAM C. WEBSTER

2763

and

WILLIAM A. WHEELER.

Illustrated with more than Three Hundred and Fifty Engravings on Wood.

(N. W. in monogram & wreath)

NEW YORK: IVISON, BLAKEMAN, TAYLOR & CO. 2764

Springfield, Mass.: G. & C. Merriam.

Cincinnati, Ohio: Van Antwerp, Bragg & Co.

(Legend on back of the above dictionary)

WEBSTER'S NEW COUNTING HOUSE AND FAMILY DICTIONARY
SUBSCRIPTION EDITION.

(Notice of copyright by G. & C. Merriam, dated 1867.)

2765

Complainant's Exhibits.

A

HIGH-SCHOOL DICTIONARY

of the

2766

ENGLISH LANGUAGE

Explanatory, Pronouncing, and Synonymous.

With an appendix containing various useful tables.
Mainly Abridged From The Latest Edition Of The
Quarto Dictionary Of

NOAH WEBSTER, LL. D.,

By WILLIAM G. WEBSTER

2767

and

WILLIAM A. WHEELER.

Illustrated with more than Three Hundred Engravings
on Wood.

(N. W. in monogram and wreath)

NEW YORK: IVISON, BLAKEMAN, TAYLOR & CO.

Springfield, Mass.: G. & C. Merriam.

2768

Cincinnati, Ohio: Van Antwerp, Bragg & Co.

(Legend on back of the above dictionary)
WEBSTER'S HIGH SCHOOL DICTIONARY
Revised Edition

(Notice of copyright by G. & C. Merriam, dated 1868.)

Title Pages and Covers.

2769

A

POCKET DICTIONARY

of the

ENGLISH LANGUAGE:

Abridged from

2770

The American Dictionary of

NOAH WEBSTER, LL. D.,

By

WILLIAM G. WEBSTER

and

WILLIAM A. WHEELER.

Illustrated with nearly Two Hundred Engravings on
Wood.

2771

(Monogram of N. W.)

NEW YORK: IVISON, BLAKEMAN, TAYLOR & CO.
Springfield, Mass.: G. & C. Merriam.

1876

(Legend on back of above dictionary)
WEBSTER'S POCKET DICTIONARY.

2772

(Notice of copyright by G. & C. Merriam, dated 1870.)

2773

*Complainant's Exhibits.*WEBSTER'S HANDY DICTIONARY.

A

HANDY DICTIONARY

of the

2774

ENGLISH LANGUAGE;

Giving

The Spelling, Pronunciation, and Meanings of the Words,
Useful Tables, the Metric System, etc.

And Many Engravings.

From the Latest Edition of the Large Dictionary of

2775

NOAH WEBSTER, LL. D.,

By

Loomis J. Campbell.

(N. W. in monogram & wreath)

New York: Cincinnati: Chicago:

American Book Company

Springfield, Mass.: G. & C. Merriam Co.

2776

(Legend on back of above dictionary)

WEBSTER'S HANDY DICTIONARY

(Notice of copyright by G. & C. Merriam, dated 1877.)

NEW EDITION, WITH SUPPLEMENT.

AN
AMERICAN DICTIONARY
of the
ENGLISH LANGUAGE;

By NOAH WEBSTER, LL. D.

2778

Thoroughly Revised. And Greatly Enlarged and
Improved.

By Chauncey A. Goodrich, D.D.

Late Professor in Yale College,

and

Noah Porter, D.D., LL.D., President of Yale College.

WITH AN APPENDIX OF USEFUL TABLES.

To which is added a supplement of nearly five thousand
new words, with their definitions, etc.

2779

Also

A NEW PRONOUNCING BIOGRAPHICAL DICTIONARY,

Containing nearly ten thousand names of noted persons
in ancient and modern times, giving their nationality,
their occupation, and the dates of their birth and
death.

SPRINGFIELD, MASS.:

2780

PUBLISHED BY G. & C. MERRIAM, STATE STREET.
1880.

(Legend on back of the above dictionary)
WEBSTER'S UNABRIDGED DICTIONARY
Supplement of New Words
Biographical Dictionary
3000 Illustrations

(Notices of copyright by G. & C. Merriam, dated 1879,
1875, 1864, 1859, 1847; by Webster's children, dated
1856.)

2781

Complainant's Exhibits.

WEBSTER'S PRACTICAL DICTIONARY.

A

PRACTICAL DICTIONARY

of the

2782

ENGLISH LANGUAGE

Giving the correct

SPELLING, PRONUNCIATION, AND DEFINITIONS OF WORDS,

With an

APPENDIX CONTAINING VARIOUS USEFUL TABLES.

Chiefly derived from

2783

WEBSTER'S UNABRIDGED DICTIONARY.

Edited under the supervision of

NOAH PORTER, D.D., LL.D.,

President of Yale College.

By DORSEY GARDNER

With Nearly Fifteen Hundred Illustrations.

(N. W. in monogram & wreath)

2784

New York and Chicago:

Iverson, Blakeman, Taylor and Company.

Springfield, Mass.:

G. & C. Merriam and Company.

1884.

(Legend on back of above dictionary)

WEBSTER'S PRACTICAL DICTIONARY

(Notice of copyright by G. & C. Merriam & Co., dated
1884.)

NEW EDITION, WITH SUPPLEMENT.

An
AMERICAN DICTIONARY
of the
ENGLISH LANGUAGE;

By
NOAH WEBSTER, LL.D.

2786

THOROUGHLY REVISED, AND GREATLY ENLARGED AND
IMPROVED,

By
Chauncey A. Goodrich, D. D.
Late Professor in Yale College,
and
Noah Porter, D.D., LL.D.
President of Yale College.

WITH AN APPENDIX OF USEFUL TABLES. 2787

To Which Is Added A Supplement Of Nearly Five Thou-
sand New Words, With Their Definitions, Etc.

A NEW PRONOUNCING GAZETTEER OF THE WORLD,
Containing names of over 22,000 Places.

Also

A NEW PRONOUNCING BIOGRAPHICAL DICTIONARY,
Containing Nearly Ten Thousand Names Of Noted Per-
sons In Ancient and Modern Times.

2788

Springfield, Mass.:

PUBLISHED BY G. & C. MERRIAM & Co., STATE STREET.
1885.

(Legend on back of the above dictionary)

WEBSTER'S UNABRIDGED DICTIONARY
Supplement of New Words—Biographical Dictionary—
3000 Illustrations.

(Notices of copyrights by Merriams, dated 1884, 1879,
1875, 1864, 1859 and 1847.)

2789

Complainant's Exhibits.

Subscription Edition, With Historical Supplement.
See page 1937.

An
AMERICAN DICTIONARY
of the
ENGLISH LANGUAGE.

2790

By
NOAH WEBSTER, LL. D.,
Thoroughly Revised, and Greatly Enlarged and Improved.

By
Chauncey A. Goodrich, D. D.
Late Professor in Yale College,
and
Noah Porter, D.D., LL.D.
President of Yale College.

WITH AN APPENDIX OF USEFUL TABLES.

2791 To which is added a supplement of nearly five thousand
new words, with their definitions, etc.

A NEW PRONOUNCING GAZETTEER OF THE WORLD,
Containing names of over 22,000 Places.

Also

A NEW PRONOUNCING BIOGRAPHICAL DICTIONARY,
Containing nearly ten thousand names of noted persons in
ancient and modern times,

With a Historical Supplement

Containing a brief history of the United States and of
each State, Lives of the Presidents, with a portrait of
each, and a great variety of other valuable information.

2792

Springfield, Mass.:

PUBLISHED BY G. & C. MERRIAM & Co., STATE STREET.
1887.

(Legend on back of above dictionary)

WEBSTER'S UNABRIDGED DICTIONARY
Supplement of New Words—Biographical Dictionary—
Gazetteer of the World—3000 Illustrations.

(Notices of copyright by Merriams, dated 1884, 1882,
1879, 1875, 1864, 1859, and 1847.)

Title Pages and Covers.

2793

NATIONAL PICTORIAL EDITION, WITH SUPPLEMENT.

A

DICTIONARY

of the

ENGLISH LANGUAGE;

Explanatory, Pronouncing, Etymological, and
Synonymous,

2794

WITH A COPIOUS APPENDIX.

Mainly Abridged From The Quarto Dictionary
of

NOAH WEBSTER, LL.D.

As Revised by
Chauncey A. Goodrich, D. D.
and

Noah Porter, D. D.

By WILLIAM A. WHEELER

2795

WITH SUPPLEMENT

OF NEARLY FOUR THOUSAND NEW WORDS AND MEANINGS

Illustrated by more than
Six Hundred Engravings on Wood.

(N. W. in monogram & wreath)

Springfield, Mass.

PUBLISHED BY G. & C. MERRIAM & Co.
1887.

2796

(Legend on back of above dictionary)

WEBSTER'S NATIONAL PICTORIAL DICTIONARY

(Notices of copyright by Merriams, dated 1884, and
1867.)

2797

Complainant's Exhibits.

WEBSTER'S CONDENSED DICTIONARY.

A

CONDENSED DICTIONARY

of the

ENGLISH LANGUAGE,

with

2798

COPIOUS ETYMOLOGICAL DERIVATIONS,

Accurate Definitions, Pronunciations, Spelling,
andAppendix for General Reference,
Chiefly Derived from the Unabridged Dictionary of

NOAH WEBSTER, LL.D.

2799

Edited under the supervision of

NOAH PORTER, D.D., LL.D.,

President of Yale College,

By

DORSEY GARDNER.

With over Fifteen Hundred Illustrations.

(N. W. in monogram & wreath)

2800

New York and Chicago: .

Iverson, Blakeman, Taylor, and Company.

Springfield, Mass.:

G. & C. Merriam and Company.

 (Legend on back of above dictionary)

WEBSTER'S CONDENSED DICTIONARY

 (Notice of copyright by Merriams, dated 1884.)

Title Pages and Covers.

2801

SUBSCRIPTION EDITION, WITH COMPENDUM.
(See page 1061)

A
DICTIONARY
of the
ENGLISH LANGUAGE;
Explanatory, Pronouncing, Etymological, and
Synonymous,

2802

WITH A COPIOUS APPENDIX.

Mainly Abridged From The Quarto Dictionary
of

NOAH WEBSTER, LL.D.

As Revised By

Chauncey A. Goodrich, D. D., and Noah Porter, D. D.

BY WILLIAM A. WHEELER.

WITH SUPPLEMENT

2803

Of Nearly Four Thousand New Words And Meanings,
and

A NEW COMPENDUM,
Historical and Statistical,
of the

NATIONS OF THE WORLD.

Illustrated By More Than

SIX HUNDRED ENGRAVINGS ON WOOD,
and

EIGHT PAGES COLORED PLATES.

2804

(N. W.—in a monogram & wreath)

Springfield, Mass.

PUBLISHED BY G. & C. MERRIAM & Co.

1886.

(Legend on back of above dictionary)

WEBSTER'S NATIONAL PICTORIAL DICTIONARY

Subscription Edition

Illustrated

(Notices of copyright by Merriams, dated 1886, 1884, and
1867.)

2805

Complainant's Exhibits.

WEBSTER'S
INTERNATIONAL DICTIONARY
of the

ENGLISH LANGUAGE;

2806

Being the authentic edition of

WEBSTER'S UNABRIDGED DICTIONARY

Comprising the issues of 1864, 1879, and 1884.
Now thoroughly revised and enlarged under the
supervision of

NOAH PORTER, D.D., LL.D.
Of Yale University

With A Voluminous Appendix

2807

(N. W. in monogram & wreath)

Springfield, Mass.
Published by G. & C. Merriam & Co.
1890

(Legend on back of above dictionary)

2808

WEBSTER'S INTERNATIONAL DICTIONARY
THE AUTHENTIC UNABRIDGED REVISED AND ENLARGED
G. & C. MERRIAM & CO.

(Notices of copyright by Merriams, dated 1890, 1884,
1879 and 1864.)

Title Pages and Covers.

2809

WEBSTER'S HIGH SCHOOL DICTIONARY

A

DICTIONARY

of the

ENGLISH LANGUAGE

2810

With An Appendix

Containing a Pronouncing Vocabulary of Biblical, Classical, Mythological, Historical, and Geographical Proper Names

Abridged from

WEBSTER'S INTERNATIONAL DICTIONARY

2811

800 Illustrations

(N. W. in monogram & wreath)

New York: Cincinnati: Chicago

AMERICAN BOOK COMPANY

Springfield, Mass.: G. & C. Merriam Co.

(Legend on back of the above dictionary)

2812

WEBSTER'S HIGH SCHOOL DICTIONARY

AMERICAN BOOK COMPANY

(Notice of copyright by Merriams, dated 1892.)

2813

Complainant's Exhibits.

WEBSTER'S PRIMARY SCHOOL DICTIONARY

A

DICTIONARY

of the

2814

ENGLISH LANGUAGE

Designed for use in

PRIMARY SCHOOLS

Abridged from

WEBSTER'S INTERNATIONAL DICTIONARY

400 Illustrations.

2815

(N. W. in monogram & wreath)

New York: Cincinnati: Chicago

AMERICAN BOOK COMPANY

Springfield, Mass.: G. & C. Merriam Co.

(Legend on back of above dictionary)

2816

WEBSTER'S PRIMARY DICTIONARY

AMERICAN BOOK COMPANY

(Notice of copyright by Merriams, dated 1892.)

WEBSTER'S COMMON SCHOOL DICTIONARY

A

DICTIONARY

of the

ENGLISH LANGUAGE

2818

Designed for use in
COMMON SCHOOLS

Abridged from

WEBSTER'S INTERNATIONAL DICTIONARY

500 Illustrations

2819

(N. W. in monogram & wreath)

New York: Cincinnati: Chicago

AMERICAN BOOK COMPANY


Springfield, Mass.: G. & C. Merriam Co.

(Legend on back of above dictionary)

WEBSTER'S COMMON SCHOOL DICTIONARY

AMERICAN BOOK COMPANY

2820

(Notice of copyright by Merriams, dated 1892.)


2829

Complainant's Exhibits.

WEBSTER'S COUNTINGHOUSE DICTIONARY

A

DICTIONARY

of the

2830

ENGLISH LANGUAGE

Giving the Derivations, Pronunciations, Definitions and
Synonyms of a Large Vocabulary of The Words in
Common Use

WITH AN APPENDIX CONTAINING COMMERCIAL
AND VARIOUS OTHER USEFUL TABLES

Mainly Abridged From

2831

WEBSTER'S INTERNATIONAL DICTIONARY

Over 800 Illustrations

(N. W. in monogram & wreath)

New York. Cincinnati: Chicago

AMERICAN BOOK COMPANY

Springfield, Mass.: G. & C. Merriam Co.

2832

(Legend on back of above dictionary)

WEBSTER'S COUNTINGHOUSE AND FAMILY
DICTIONARY

(Notices of copyright by Merriams, dated 1896 and 1895.)

Title Pages and Covers.

2833

WEBSTER'S COLLEGIATE DICTIONARY.

A

DICTIONARY

of the

ENGLISH LANGUAGE

2834

Giving the Derivations, Pronunciations, Definitions and
Synonyms of a Large Vocabulary of the Words
Occurring in Literature, Art, Science and the
Common Speech

With An Appendix

Containing a Copious Scotch Glossary, A Pronouncing
Vocabulary of Proper Names, and Various
Other Useful Tables

2835

Mainly Abridged From

WEBSTER'S INTERNATIONAL DICTIONARY

Over 1100 Illustrations

(N. W. in monogram & wreath)

Springfield, Mass.

Published by G. & C. Merriam Co.

2836

(Legend on back of above dictionary)

WEBSTER'S COLLEGIATE DICTIONARY

(N. W. in monogram & wreath)

G. & C. MERRIAM CO.

(Notice of copyright by Merriams, dated 1898.)

2837

. *Complainant's Exhibits.*

New Edition With Supplement of New Words

WEBSTER'S
INTERNATIONAL DICTIONARY
of the
ENGLISH LANGUAGE

2838 Being the Authentic Edition of Webster's Unabridged
Dictionary, Comprising the Issues of 1864, 1879,
and 1884, Thoroughly Revised and Much En-
larged under the Supervision of

NOAH PORTER, D.D., LL.D.

With a Voluminous Appendix

To Which is Now Added

2839

A SUPPLEMENT

Of Twenty-Five Thousand Words and Phrases

W. T. HARRIS, PH.D., LL.D.

EDITOR IN CHIEF

(N. W. in monogram & wreath)

Springfield, Mass., U. S. A.

PUBLISHED BY G. & C. MERRIAM COMPANY

2840

1909

(Legend on back of above dictionary)

WEBSTER'S INTERNATIONAL DICTIONARY

WITH A SUPPLEMENT OF ADDITIONAL WORDS AND MEANINGS
G. & C. MERRIAM CO.

(Notices of copyrights by Merriams, dated 1900, 1890,
1884, 1879 and 1864.)

WEBSTER'S UNABRIDGED DICTIONARY

AN

AMERICAN DICTIONARY

of the

ENGLISH LANGUAGE

By

NOAH ~~PORTER~~ LL.D.*Webster*

2842

Thoroughly Revised, and Greatly Enlarged and Improved

By

Chauncey A. Goodrich, D. D.,
Late Professor in Yale College
andNoah Porter, D.D., LL.D.
President of Yale College

WITH AND APPENDIX OF USEFUL TABLES

2843

Including Recent Population Statistics of the World
andA SUPPLEMENT OF MORE THAN FIVE THOUSAND WORDS AND
PHRASESPublished for the Trade
1909

2844

(Legend on back of above dictionary)

WEBSTER'S UNABRIDGED DICTIONARY

5000 Added Words—Useful Appendix Tables—Popula-
tion Statistics—3000 Illustrations.(Notices of copyrights by Merriams, dated 1864, 1879 and
1903; by Martha and Rebecca Porter, dated 1892.)

2845

Complainant's Exhibits.

..

WEBSTER'S

LITTLE GEM

DICTIONARY

And Reference Manual

2846

Abridged from Webster's
International Dictionary

(N. W. in monogram & wreath)

2847

A large Pronouncing Vocabulary with Definitions,
Synonyms, Use of Capitals, etc., Gazetteer, Maps,
Vocabularies of Foreign Words, Abbreviations,
Coins, Weights and Measures, Tables of Presidents,
Antidotes, Postage, Rules for Spelling, Punctuation,
Standard and Relative Time, Forms of Address, etc.

Springfield, Mass., U. S. A.

Published By G. & C. Merriam Co.
1907.

(Legend on front cover only—Webster's Little Gem
Dictionary)

2848

(Notice of copyright by Merriams, dated 1905.)

Title Pages and Covers.

284

WEBSTER'S CONDENSED DICTIONARY

A
CONDENSED DICTIONARY
of the
ENGLISH LANGUAGE

Giving the Correct

SPELLING, PRONUNCIATION AND DEFINITIONS OF WORDS

2850

Based on

THE UNABRIDGED DICTIONARY
of
NOAH WEBSTER, D.D., LL.D.

With an

APPENDIX COMPRISING

A Pronouncing Vocabulary of Biblical, Classical, Mytho-
logical, Historical, and Geographical Proper Names;
Abbreviations Used in Writing and Printing;
Arbitrary Signs Used in Writing and
Printing

2851

Edited under the Supervision of
NOAH PORTER, D.D., LL.D.
President of Yale College

By

DORSEY GARDNER

With Nearly Fifteen Hundred Illustrations

(N. W. in monogram & wreath)

2852

Chicago

The Reilly & Britton Co.

Springfield, Mass.: G. & C. Merriam Co.

1906

(Legend on back of above dictionary)

WEBSTER'S CONDENSED DICTIONARY

(Notice of copyright by Merriams, dated 1884 and 1906.)

2853

Complainant's Exhibits.

WEBSTER'S PRACTICAL DICTIONARY

A

PRACTICAL DICTIONARY

of the

ENGLISH LANGUAGE

2854

Giving the Correct

SPELLING, PRONUNCIATION AND DEFINITIONS OF WORDS
Based onTHE UNABRIDGED DICTIONARY
of

NOAH WEBSTER, LL.D.

Edited under the supervision of

NOAH PORTER, D.D., LL.D.

2855

President of Yale College

By

DORSEY GARDNER

With Nearly Fifteen Hundred Illustrations

(N. W. in monogram & wreath)

Chicago

The Reilly & Britton Co.

2856

Springfield, Mass.: G. & C. Merriam Co.

1906

(Legend on back of the above dictionary)
WEBSTER'S PRACTICAL DICTIONARY(Notices of copyrights by Merriams, dated 1884 and
1906.)

Title Pages and Covers.

2857

WEBSTER'S
NEW INTERNATIONAL
DICTIONARY

of the

ENGLISH LANGUAGE

2858

Based On The International Dictionary
Of 1890 and 1900, Now Completely
Revised in All Departments

Including Also

A Dictionary of Geography and Biography, Being
The Latest Authentic Quarto Edition Of
The Merriam Series

W. T. HARRIS, PH.D., LL.D.
Editor in Chief

2859

F. STURGES ALLEN
General Editor

(N. W. in monogram & wreath)

Springfield, Mass., U. S. A.

PUBLISHED BY G. & C. MERRIAM COMPANY
1912

2860

(Legend on back of above dictionary)

WEBSTER'S NEW INTERNATIONAL DICTIONARY
The Latest Authentic Edition of The Merriam Series
G. & C. MERRIAM CO.

(Notice of copyright by Merriams, dated 1909.)

2861

Complainant's Exhibits.

WEBSTER'S CONDENSED DICTIONARY

A

CONDENSED DICTIONARY

of the

ENGLISH LANGUAGE

Giving the Correct

2862 SPELLING, PRONUNCIATION AND DEFINITIONS OF WORDS
Based on

THE UNABRIDGED DICTIONARY

of

NOAH WEBSTER, LL.D.

Edited under the supervision of

NOAH PORTER, D.D., LL.D.

President of Yale College

By

DORSEY GARDNER

2863

With Nearly Fifteen Hundred Illustrations
Also an

APPENDIX COMPRISING

A Pronouncing Gazetteer of the World; Special Dictionaries of Christian, Classical and Mythological, and Famous Historical Names and Familiar Phrases; Lists of Business and Law Terms, of Foreign Words and Phrases, of Abbreviations; A Variety of Information as to Weights and Measures, Coins, United States History and Statistics, Parliamentary Order, Patents, Copyright, Declaration of Independence, Constitution, Simplified Spelling, etc., etc.

2864

(N. W. in monogram & wreath)

Chicago

The Reilly & Britton Co.

Springfield, Mass.. G. & C. Merriam Co.

1909

(Legend on back of above dictionary)

WEBSTER'S CONDENSED DICTIONARY

(Notices of copyrights by Merriams, dated 1884, 1906, and 1909.)

WEBSTER'S COLLEGIATE DICTIONARY

**A
DICTIONARY
of the
ENGLISH LANGUAGE**

Giving the Derivations, Pronunciations, Definitions and
Synonyms of a Large Vocabulary of the Words Occur-
ring in Literature, Art, Science, and the Common
Speech 2866

With An Appendix

Containing a Copious Scotch Glossary, A Pronouncing
Vocabulary of Proper Names, Various Other
Useful Tables and

**A SUPPLEMENT OF ADDITIONAL WORDS AND
MEANINGS** 2867

Mainly Abridged From

WEBSTER'S INTERNATIONAL DICTIONARY

Over 1100 Illustrations

(N. W. in monogram & wreath)

Springfield, Mass.

Published by G. & C. Merriam Co.
1911.

2868

(Legend on back of the above dictionary
WEBSTER'S COLLEGIATE DICTIONARY
(N. W. in monogram & wreath)
G. & C. MERRIAM CO.

(Notices of copyrights by Merriams, dated 1910 and
1898.)

2869

Complainant's Exhibits.

WEBSTER'S PRACTICAL DICTIONARY

A
PRACTICAL DICTIONARY
of the
ENGLISH LANGUAGE

2870

Giving the Correct
SPELLING, PRONUNCIATION AND DEFINITIONS OF WORDS
Based on

THE UNABRIDGED DICTIONARY
of
NOAH WEBSTER, LL.D.

Edited under the supervision of
NOAH PORTER, D.D., LL.D.

2871

President of Yale College

By

DORSEY GARDNER

With Nearly Fifteen Hundred Illustrations
Also an

APPENDIX COMPRISING

(Descriptive matter omitted by consent.)

(N. W. in monogram & wreath)

2872

Chicago

The Reilly & Britton Co.

Springfield, Mass.: G. & C. Merriam Co.

1910

(Legend on back of the above dictionary)
WEBSTER'S PRACTICAL DICTIONARY

(Notices of copyrights by Merriams, dated 1884, 1906
and 1910.)

Title Pages and Covers.

2873

WEBSTER'S

LITTLE GEM

DICTIONARY

And Reference Manual

Abridged from Webster's International Dictionary

2874

(N. W. in monogram & wreath)

A large Pronouncing Vocabulary with Definitions, Synonyms, Use of Capitals, etc., Gazetteer, Maps, Vocabularies of Foreign Words, Abbreviations, Coins, Weights and Measures, Tables of Presidents, Antidotes, Postage, Rules for Spelling, Punctuation, Standard and Relative Time, Forms of Address, etc.

Springfield, Mass., U. S. A.

Published By G. & C. Merriam Co.

2875

1912.

(Legend on front cover only)

WEBSTER'S LITTLE GEM DICTIONARY.

(Notice of copyright by Merriams, dated 1911.)

2876

No. 134.

DISTRICT OF CONNECTICUT, SS.:

BE IT REMEMBERED: That on the Fifteenth day of January in the thirtieth year of the Independence of the United States of America Noah Webster Esqr. of the said District, hath deposited a Book the right whereof he claims as author, in the words following to wit:

"A compendious Dictionary of the English Language.
 "In which Five Thousand words are added to the number 2882
 "found in the best English compends; The orthography
 "is in some instances, corrected; The pronunciation
 "marked by an accent or other suitable direction; and the
 "Definitions of many words amended and improved. To
 "which are added for the benefit of the Merchant, the
 "Student & the Traveller:

- "1st. Tables of the moneys of most of the commercial
 "Nations in the World, with the Values expressed
 "in Sterling & Cents.
- "2d. Tables of Weights & measures, ancient & modern, 2883
 "with the proportion between the several weights
 "used in the principal Cities of Europe.
- "3d. The Divisions of Time, among the Jews, Greeks
 "& Romans, with a Table exhibiting the Roman
 "manner of dating.
- "4th. An Official List of the Post Offices in the United
 "States, with the States & Counties in which
 "they are respectively situated, and the distance
 "of each from the Seat of Government."
- "5th. The number of Inhabitants in the United States, 2884
 "with the amount of Exports.
- "6th. New & Interesting Chronological Tables of re-
 "markable Events and Discoveries: by Noah
 "Webster Esqr." In conformity to the act of the

Congress of the United States, entitled "An Act for the encouragement of learning, by securing the Copies of Maps, Charts & Books to authors & proprietors of such Copies during the times therein mentioned."

SIMEON BALDWIN, Clerk,
 of the District of Connecticut.

[Certificate attached.]

2885

Complainant's Exhibits.

No. 146.

DISTRICT OF CONNECTICUT: to wit—

BE IT REMEMBERED: That on the 14th day of August in the thirty second year of the Independence of the United States of America, Noah Webster, Esq. of the said District hath deposited in this office the Title of a Book the right whereof he claims as Author in the words following, to wit:

“A Dictionary of the English Language,
“compiled for the use of Common Schools
“in the United States—By Noah Webster,
“ster, Esqr.”

In conformity to the Act of the Congress of the United States, entitled “An Act for the encouragement of learning by securing the Copies of Maps, Charts, and Books, to the Authors and Proprietors of such copies during the times therein mentioned.

2887

H. W. EDWARDS, Clerk
of the District of Connecticut.

[Certificate attached.]

2888

No. 552.

DISTRICT OF CONNECTICUT, ss.:

BE IT REMEMBERED: that on the fourteenth day of April in the fifty second year of the independence of the United States of America, Noah Webster of the said District hath deposited in this office the title of a book the right whereof he claims as Author in the words following, to wit:

“An American Dictionary of the English language,

Copyright Certificates.

2889

"intended to exhibit, I. the origin, affinities and primary
"signification of English words, as far as they have been
"ascertained.

"II. The genuine orthography and pronunciation of
"words, according to general usage, or to just principles
"of analogy.

"III. Accurate and discriminating definitions, with
"numerous authorities and illustrations.

"To which are prefixed an introductory dissertation on
"the origin history, and connection of the languages of
"Western Asia and of Europe, and a concise grammar
"of the English language. By Noah Webster, LL.D. in
"two volumes."

2890

In conformity to the act of Congress of the United
States, entitled "An Act for the encouragement of learn-
"ing, by securing the copies of maps charts and books to
"the authors and proprietors of such copies during the
"times therein mentioned." And also to the act entitled
"An act supplementary to an act, entitled 'An act for the
"encouragement of learning, by securing the copies of
"maps charts and books to the authors and proprietors
"of such copies during the times therein mentioned' and
"Extending the benefits thereof to the arts of designing,
"engraving and etching historical and other prints."

2891

CHARLES A. INGERSOLL, Clerk
of the District of Connecticut.
[Certificate attached.]

2892

No. 592.

DISTRICT OF CONNECTICUT, ss.:

BE IT REMEMBERED: that on the twenty second day of
May in the fifty third year of the independence of the

Complainant's Exhibits.

United States of America, Noah Webster of the said District hath deposited in this office the title of a book the right whereof he claims as Author in the words following, to wit: "A dictionary of the English language: "abridged from the American Dictionary, for the use of "primary schools and the Counting House. By Noah "Webster, LL.D." In conformity to the act of Congress of the United States, entitled "An act for the encourage-
 2894 "ment of learning, by securing the copies of maps charts "and books to the authors and proprietors of such copies "during the times therein mentioned"—And also to the act, entitled "An act supplementary to an act, entitled " "An act for the encouragement of learning by securing "the copies of maps charts and books to the authors and "proprietors of such copies during the times therein mentioned" and extending the benefits thereof to the arts of "designing, engraving and etching historical and other "prints."

2895

CHAS. A. INGERSOLL, Clerk
 of the District of Connecticut.
 [Certificate attached.]

No. 824.

DISTRICT OF CONNECTICUT TO WIT

BE IT REMEMBERED: That on the 11th day of September
 2896 Anno Domini 1833 Noah Webster of the said District hath deposited in this office the title of a book the title of which is in the words following to wit "A Dictionary for Primary Schools by Noah Webster LL. D." The right whereof he claims as Author in conformity with an act of Congress entitled "an act to amend the several acts respecting copy rights."

CHAS. A. INGERSOLL, Clerk
 of the District of Connecticut.
 [Certificate attached.]

Copyright Certificates.

2897

No. 1069

DISTRICT OF CONNECTICUT, ss.:

BE IT REMEMBERED: That on the first day of September A D 1840 Noah Webster of the said District hath deposited in this office the Title of a Book the title of which is in the Words following to Wit:—"An American Dictionary of the English Language, first Edition in Octavo containing the whole vocabulary of the Quarto, with corrections improvements & several thousand additional words, to which is prefixed an introductory dissertation on the origin, history and connection of the languages of western Asia & Europe with an explanation of the principles on which languages are formed By Noah Webster L. L. D. Member of the American Philosophical Society in Philadelphia, Fellow of the American Academy of Arts & Sciences in Massachusetts; Member of the Connecticut Academy of Arts & Sciences; Fellow of the Royal Society of northern Antiquaries in Copenhagen; Member of the Connecticut Historical Society; Corresponding Member of the historical Societies in Massachusetts, New York, and Georgia: of the Academy of Medicine in Philadelphia & of the Columbian Institute in Washington & honorary Member of the Michigan historical society. General subjects of this work—1 Etymologies of English words: deducted from an examination & comparison of words of corresponding elements in twenty languages of Asia & Europe. 2, The true orthography of words as corrected by their Etymologies. 3. Pronunciation exhibited and made obvious by the division of words into syllables, by accentuation, by making the sounds of the accented vowels when necessary or by general rules. 4. Accurate and discriminating definitions, illustrated when doubtful or obscure, by examples of their use selected from respectable authors, or by familiar phrases of undisputed authority. In Two Volumes." The right Whereof he claims as Author in conformity with an Act of Congress entitled "An Act to amend the several Acts respecting Copy Rights."

CHAS. A. INGERSOLL, Clerk

of the District of Connecticut.

[Certificate attached.]

2901

Complainant's Exhibits.

DISTRICT OF MASSACHUSETTS. TO WIT:

District Clerk's Office.

BE IT REMEMBERED: That on the Twenty fourth day of September Anno Domini 1847, George & Charles Merriam of the said District, have deposited in this office the Title of a Book, the title of which is in the words following, to wit:

2902

An American Dictionary
of the English Language;

Containing the whole vocabulary of the first Edition in two Volumes, Quarto; the entire corrections and improvements of the second Edition in two Volumes, Royal Octavo; To which is prefixed an Introduction Dissertation on the Origin, History, and Connection of the languages of Western Asia or Europe, with an Explanation of the principles on which languages are formed.

By Noah Webster, LL.D.,

2903

Member of the American Philosophical Society in Philadelphia; Fellow of the American Academy of Arts and Sciences in Massachusetts; Member of the Connecticut Academy of Arts and Sciences; Fellow of the Royal Society of Northern Antiquaries in Copenhagen; Member of the Connecticut Historical Society; Corresponding Member of the Historical Societies in Massachusetts and New York; of the Academy of Medicine in Philadelphia, and of the Columbian Institute in Washington; and Honorary Member of the Historical Society of Georgia,

2904

and that of Michigan.—

General Subjects of this Work.

I. Etymologies of English Words, deduced from an examination and comparison of words of Corresponding Elements in twenty Languages of Asia and Europe.

II. The True Orthography of words, as corrected by their Etymologies.

III. Pronunciation exhibited and made obvious by the division of words into syllables, by accentuation, by mark-

Copyright Certificates.

2905

ing the sounds of the accented vowels, when necessary, or by general rules.

IV. Accurate and discriminating definitions, illustrated, when doubtful or obscure, by examples of their use, selected from respectable authors, or by familiar phrases of undisputed authority.

Revised and Enlarged. By Chauncey A. Goodrich.
Professor in Yale College.

2906

With Pronouncing Vocabularies of Scripture, Classical, and Geographical Names.

the right whereof they claim as proprietors in conformity with an Act of Congress, entitled "An Act to amend the several Acts respecting Copy-Rights."

S. C. SPRAGUE, Clerk of the District.
[Certificate attached.]

2907

DISTRICT OF MASSACHUSETTS. To WIT.

District Clerk's Office.

BE IT REMEMBERED: That on the Thirtieth day of September Anno Domini 1847, George & Charles Merriam of the said District, have deposited in this office the Title of a Book the title of which is in the words following, to wit:

An American Dictionary of the English Language; containing The whole vocabulary of the first edition in two volumes Quarto; The entire corrections and improvements of the second edition in two volumes Royal Octavo; to which is prefixed

2908

An introductory Dissertation On the Origin, History, and Connection of the Languages of Western Asia and Europe, with an explanation of the Principles on which Languages are formed.

2909

Complainant's Exhibits.

By Noah Webster, LL. D., Member of the American Philosophical Society in Philadelphia; Fellow of the American Academy of Arts & Sciences in Massachusetts; Member of the Connecticut Academy of Arts & Sciences; Fellow of the Royal Society of Northern Antiquaries in Copenhagen; Member of the Connecticut Historical Society; Corresponding Member of the Historical Societies in Massachusetts, New York and Georgia; of the Academy of Medicine in Philadelphia and of the Columbian Institute in Washington; and Honorary Member of the Michigan Historical Society.

General Subjects of this Work.

- I. Etymologies of English words, deduced from an examination and comparison of words of corresponding elements in twenty languages of Asia and Europe.
- II. The true orthography of words, as corrected by their etymologies.
- 2911 III. Pronunciation exhibited and made obvious by the division of words into syllables, by accentuation, by marking the sounds of the accented vowels, when necessary or by General Rules.
- IV. Accurate and discriminating definitions, illustrated, when doubtful or obscure, by examples of their use selected from Respectable Authors or by familiar Phrases of undisputed authority.

Revised and Enlarged by Chauncey A. Goodrich
2912 Professor in Yale College.

With Pronouncing Vocabularies of Scripture, Classical and Geographical Names,
the right whereof they claim as proprietors in conformity with an Act of Congress, entitled "An Act to amend the several Acts respecting Copy-Rights."

S. C. SPRAGUE, Clerk of the District.
[Certificate attached.]

Copyright Certificates.

2913

DISTRICT OF MASSACHUSETTS. To WIT:

District Clerk's Office.

BE IT REMEMBERED: That, on the Eighteenth day of April Anno Domini 1859, G. & C. Merriam of the said District, have deposited in this Office the Title of a Book the title of which is in the words following, to wit:

An American Dictionary of the English Language; containing the Whole Vocabulary of the First Edition in two Volumes Quarto; The entire corrections and Improvements of the Second Edition in two volumes Royal Octavo; to which is Prefixed An Introductory Dissertation on the Origin, History, and Connection, of the Languages of Western Asia and Europe, With An Explanation of the Principles on which Languages are formed. 2914

By Noah Webster, LL. D., Member of the American Philosophical Society in Philadelphia; Fellow of the American Academy of Arts and Sciences in Massachusetts; Member of the Connecticut Academy of Arts & Sciences; Fellow of the Royal Society of Northern Antiquaries in Copenhagen; Member of the Connecticut Historical Society; Corresponding Member of the Historical Societies in Massachusetts, New York, and Georgia; of the Academy of Medicine in Philadelphia, and of the Columbian Institute in Washington; and Honorary Member of the Michigan Historical Society. 2915

General Subjects of this Work. 2916

- I. Etymologies of English Words, deduced from an Examination and Comparison of Words of corresponding Elements in Twenty Languages of Asia & Europe.
- II. The true Orthography of Words, as corrected by their Etymologies.
- III. Pronunciation exhibited and made obvious by the division of Words into Syllables, By Accentuation, By marking the sounds of the accented vowels, when necessary, or by general rules.

2917

Complainant's Exhibits.

IV. Accurate and Discriminating Definitions, Illustrated, when doubtful or obscure, by Examples of their use, selected from Respectable Authors, or by familiar Phrases of Undisputed Authority.

Revised and Enlarged, By Chauncey A Goodrich,
Professor in Yale College.

2918

With pronouncing vocabularies of Scripture, Classical, and Geographical names, To which are now added Pictorial Illustrations, Table of Synonyms, Peculiar use of Words & Terms in the Bible, Appendix of new words, Pronouncing Table of names of Distinguished Persons, Abbreviations, Latin, French, Italian & Spanish Phrases, etc. the right whereof they claim as proprietors in conformity with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights."

S. C. SPRAGUE Clerk of the District.
[Certificate attached.]

2919

DISTRICT OF MASSACHUSETTS. TO WIT:

District Clerk's Office.

BE IT REMEMBERED: That on the Thirtieth day of September Anno Domini 1847, George & Charles Merriam of the said District, have deposited in this office the Title of a Book the title of which is in the words following, to wit:

2920

An American Dictionary of the English Language; containing The whole vocabulary of the first Edition in two volumes Quarto; the Entire Corrections and Improvements of the Second Edition in two volumes Royal Octavo; to which is prefixed

An Introductory Dissertation On the Origin, History and Connection, of the Languages of Western Asia and Europe, with an Explanation of the Principles on which Languages are formed.

Copyright Certificates.

2921

By Noah Webster, LL. D., Member of the American Philosophical Society in Philadelphia; Fellow of the American Academy of Arts and Sciences in Massachusetts; Member of the Connecticut Academy of Arts & Sciences; Fellow of the Royal Society of Northern Antiquaries in Copenhagen; Member of the Connecticut Historical Society; Corresponding Member of the Historical Societies in Massachusetts, New York, and Georgia; of the Academy of Medicine in Philadelphia, and of the Columbian Institute in Washington; and Honary Member of the Michigan Historical Society.

2922

General subjects of this Work.

I. Etymologies of English words, deduced from an Examination and Comparison of Words of Corresponding Elements in twenty languages of Asia and Europe.

II. The true Orthography of Words, as Corrected by their Etymologies.

III. Pronunciation Exhibited and made obvious by the Division of Words into Syllables, by Accentuation, by marking the Sounds of the Accented vowels, when necessary or by General Rules.

2923

IV. Accurate and discriminating definitions, illustrated, when doubtful or obscure, by Examples of their use, selected from Respectable Authors, or by familiar Phrases of undisputed authority.

Revised and Enlarged By Chauncy A. Goodrich,
Professor in Yale College.

2924

With pronouncing vocabularies of Scripture, Classical and Geographical Names, the right whereof they claim as proprietors in conformity with an Act of Congress, entitled "An Act to amend the several Acts respecting Copy-rights."

(Certif.)

S. E. SPRAGUE

Clerk of the District.

(A copy deposited Dec. 28, 1847.)

2925

Complainant's Exhibits.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

THORVALD SOLBERG,
Register of Copyrights.

[SEAL]

Copyright Office of the United States of America,
Washington, D. C.

2926

1366

DISTRICT OF CONNECTICUT, SS.:

2927

Be it Remembered. That on the eighth day of April, A. D.: 1848: William W. Ellsworth and Henry White of the said District Executors of the last will and Testament of Noah Webster late of the said District deceased have deposited in this Office the title of a Book the title of which is in the words following: To Wit: "A High School Pronouncing Dictionary of the English Language abridged from the American Dictionary of Noah Webster, LL.D. with accented vocabularies of 'classical Scripture and Modern Geographical Names. By William G. Webster.'" The Right Whereof they claim as Proprietors in Conformity with an Act of Congress. Entitled an Act to amend the several Acts respecting Copy Rights.

JOHN J. CLEVELAND

2928

Clerk of the District of Connecticut.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-sixth day of March, 1912.

THORVALD SOLBERG,
Register of Copyrights.

[SEAL]

Copyright Office of the United States of America,
Washington, D. C.

Copyright Certificates.

2929

No. 1389

DISTRICT OF CONNECTICUT, ss.:

Be it Remembered. That on the twelfth day of August A. D. 1848, William W. Ellsworth and Henry White of the said District Executors of the last Will and Testament of Noah Webster late of the said District, deceased, have deposited in this Office the title of a Book the title of which is in the words following To Wit: "A Primary School Pronouncing Dictionary of the English Language abridged from the American Dictionary by Noah Webster, LL.D. with accented vocabularies of Classical Scripture, and Modern Geographical Names. By William G. Webster." The Right Whereof they claim as Proprietors in Conformity with an Act of Congress Entitled an Act to amend the several Acts respecting Copyrights.

2930

JOHN J. CLEVELAND

Clerk of District of Connecticut.

2931

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-sixth day of March, 1912.

THORVALD SOLBERG,

[SEAL]

Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

2932

No. 1479

DISTRICT OF CONNECTICUT, ss.:

Be it Remembered. That on the Sixteenth day of September A. D. 1850. Henry White & Wm. W. Ellsworth Executors of the late Noah Webster LL D. have deposited in this Office the title of a Book the title of which is in the words following "To Wit." "Academic Edi-

2933

Complainant's Exhibits.

tion. A Dictionary of the English Language abridged from the American Dictionary By Noah Webster LL D. revised Edition. Containing several thousand additional words from the last edition of the larger work. Important Etymologies, Rules for Orthography and pronunciation of words. The accented Vocabularies of Walkers Key to the Classical Pronunciation of Greek. Latin & Scripture proper names with a Memoir of the Author.

2934 The Right Whereof they claim as Proprietors in Conformity with an Act of Congress Entitled An Act to amend the several Acts respecting Copyrights.

JOHN J. CLEVELAND

Clk. Dist. of Conn.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twentieth day of March, 1912.

2935

[SEAL]

THORVALD SOLBERG,

Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

DISTRICT OF MASSACHUSETTS. To WIT:

District Clerk's Office.

2936 BE IT REMEMBERED, That, on the Nineteenth day of March Anno Domini 1856, G. & C. Merriam of the said District have deposited in this Office the Title of a Book the title of which is in the words following, to wit:

A High School Pronouncing Dictionary of the English Language, Abridged from the American Dictionary of Noah Webster, LL D., With Accented Vocabularies of Classical, Scripture, And Modern Geographical Names. By William G. Webster.

the right whereof they claim as proprietors in conformity

Copyright Certificates.

2937

with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights."

S. E. SPRAGUE Clerk of District.

(A Copy Deposited August 22, 1856.)

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-sixth day of March, 1912.

2938

THORVALD SOLBERG,
Register of Copyrights.

[SEAL]

Copyright Office of the United States of America,
Washington, D. C.

DISTRICT OF MASSACHUSETTS. TO WIT:

District Clerk's Office. 2939

BE IT REMEMBERED, That, on the Fifteenth day of September Anno Domini 1856, G. & C. Merriam of the said District, have deposited in this Office the Title of a Book the title of which is in the words following, to wit:

An Explanatory and Pronouncing Dictionary of The English Language. With Synonyms. Abridged from the American Dictionary of Noah Webster, LL. D. By William G. Webster, Assisted by Chauncey A. Goodrich, D. D. With Numerous Useful Tables.

the right whereof they claim as proprietors in conformity with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights." 2940

S. E. SPRAGUE Clerk of District.

(A Copy Deposited Dec. 3, 1856.)

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof,

2914

Complainant's Exhibits.

the seal of this Office has been hereto affixed this twenty-sixth day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

2942

DISTRICT OF MASSACHUSETTS. TO WIT:

District Clerk's Office.

BE IT REMEMBERED, That, on the Nineteenth day of March Anno Domini 1856, G. & C. Merriam of the said District, have deposited in this Office the Title of a Book the title of which is in the words following, to wit:

A Dictionary of The English Language; Abridged from the American Dictionary, By Noah Webster, LL.D. Revised Edition.

2943

Containing Several Thousand Additional Words, From the Last Edition of the larger work; important Etymologies; Rules for The Orthography and pronunciation of Words; The Accented Vocabularies of Walker's Key To the Classical Pronunciation of Greek, Latin And Scripture proper names. With a Memoir of the Author. New Edition, With Additions and Improvements, Including A Copious Geographical Vocabulary.

2944

the right whereof they claim as proprietors in conformity with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights."

S. E. SPRAGUE Clerk of District.

(A copy deposited August 22, 1856.)

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof,

Copyright Certificates.

2945

the seal of this Office has been hereto affixed this twenty-sixth day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

2946

DISTRICT OF MASSACHUSETTS. To Wit:

District Clerk's Office.

BE IT REMEMBERED, That, on the Nineteenth day of March Anno Domini 1856, G. & C. Merriam of the said District, have deposited in this Office the Title of a Book the title of which is in the words following, to wit:

A Primary School Pronouncing Dictionary of the English Language; Abridged from the American Dictionary By Noah Webster, LL.D.,

2947

With Accented Vocabularies of Classical Scripture, And Modern Geographical Names. By William G. Webster.

the right whereof they claim as proprietors in conformity with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights."

S. E. SPRAGUE Clerk of District.

(A Copy Deposited August 22, 1856.)

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof the seal of this Office has been hereto affixed this twenty-sixth day of March, 1912.

2948

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

2949

Complainant's Exhibits.

DISTRICT OF MASSACHUSETTS. To Wit:

District Clerk's Office.

BE IT REMEMBERED, That, on the Second day of February, Anno Domini 1863, George, Charles and Homer Merriam of the said District, have deposited in this Office the Title of a Book the title of which is in the words following to wit:

2950 The Army and Navy Pocket Dictionary. By William G. Webster.

the right whereof they claim as proprietors in conformity with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights."

A copy deposited
March 2d 1863.

S. E. SPRAGUE

Clerk of the District.

2951

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-sixth day of March, 1912.

THORVALD SOLBERG,

[SEAL]

Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

2952

DISTRICT OF MASSACHUSETTS. To Wit:

District Clerk's Office.

BE IT REMEMBERED, That, on the Twenty-seventh day of April Anno Domini 1864, George, Charles & Homer Merriam of the said District, have deposited in this Office the Title of a Book the title of which is in the words following, to wit:

The Army and Navy Pocket Dictionary.

Copyright Certificates.

2953

the right whereof they claim as proprietors in conformity with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights."

S. E. SPRAGUE Clerk of District.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-sixth day of March, 1912.

2954

THORVALD SOLBERG,

[SEAL]

Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

DISTRICT OF MASSACHUSETTS. TO WIT:

District Clerk's Office.

BE IT REMEMBERED, That, on the Eighth day of August Anno Domini 1864, G. & C. Merriam of the said District, have deposited in this Office the Title of a Book, the title of which is in the words following, to wit: 2955

Appendix to Webster's Dictionary, Containing Explanatory and Pronouncing Vocabularies of The names of noted Fictitious Persons, Places, Etc.; Modern Geographical names; and Common English Christian names, with their equivalents in several other languages; Pronouncing Vocabularies of Scripture Proper names; Greek and Latin Proper names; Modern Geographical names; and Modern Biographical names; and Explanatory Tables of Quotations, Words, Phrases, Proverbs, Etc., From the Greek, the Latin and Modern Foreign Languages; Abbreviations and Contractions used in Writing and Printing; and Arbitrary signs used in Writing and Printing. To which is added. A Classified Selection of Pictorial Illustrations. 2956

the right whereof they claim as proprietors in conformity

2957

Complainant's Exhibits.

with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights."

A copy deposited.

Sept. 15, 1864—

S. E. SPRAGUE
Clerk of the District.

2958 I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

2959 DISTRICT OF MASSACHUSETTS. To WIT:

District Clerk's Office.

BE IT REMEMBERED, That, on the Eighth day of August Anno Domini 1864, G. & C. Merriam of the said District, have deposited in this Office the Title of a Book, the title of which is in the words following, to wit:

2960 An American Dictionary of the English Language By Noah Webster, LL.D. Thoroughly revised, and greatly enlarged and improved By Chauncey A. Goodrich, D. D., LL.D., Late Professor of Rhetoric and Oratory, and also Professor of the Pastoral charge in Yale College, And Noah Porter, D. D., Clark Professor of Moral Philosophy and Metaphysics in Yale College.

the right whereof they claim as proprietors in conformity with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights."

A copy deposited

Sept. 15—1864.

S. E. SPRAGUE
Clerk of the District.

Copyright Certificates.

2961

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

2962

DISTRICT OF MASSACHUSETTS. To WIT:

District Clerk's Office.

BE IT REMEMBERED, That, on the sixteenth day of November Anno Domini 1867 G. & C. Merriam of the said District have deposited in this Office the Title of a Book the title of which is in the words following, to wit:

Counting House Edition A Dictionary of the English Language, Explanatory, Pronouncing, Etymological, And Synonymous, With an Appendix Containing Various Useful Tables. Mainly Abridged from the Latest Edition of the Quarto Dictionary of Noah Webster L.L.D. By William G. Webster And William A. Wheeler Illustrated With more than Three Hundred and Fifty Engravings On Wood.

2963

the right whereof they claim as proprietors in conformity with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights."

A copy deposited Mar. 2, 1869.

2964

Clerk of the District.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

2965

Complainant's Exhibits.

DISTRICT OF MASSACHUSETTS. To Wit:

District Clerk's Office.

BE IT REMEMBERED, That, on the sixteenth day of November Anno Domini 1867 G. & C. Merriam of the said District have deposited in this Office the Title of a Book the title of which is in the words following, to wit:

2966 Academic Edition A Dictionary of the English Language, Explanatory, Pronouncing, Etymological, And Synonymous. With an Appendix Containing Various Useful Tables. Mainly Abridged from the Latest Edition of the Quarto Dictionary of Noah Webster L.L.D By William G. Webster And William A. Wheeler Illustrated With more than Three Hundred and Fifty Engravings On Wood.

the right whereof they claim as proprietors in conformity with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights."

2967 A copy deposited May 28, 1868.

Clerk of the District.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

THORVALD SOLBERG,

[SEAL]

Register of Copyrights.

2968 Copyright Office of the United States of America,
Washington, D. C.

DISTRICT OF MASSACHUSETTS. To Wit:

District Clerk's Office.

BE IT REMEMBERED, That, on the sixteenth day of November Anno Domini 1867 G. & C. Merriam of the said District have deposited in this Office the Title of a Book the title of which is in the words following, to wit:

Copyright Certificates.

296

A High School Dictionary of the English Language Explanatory, Pronouncing, and Synonymous, With an Appendix containing Various Useful Tables, Mainly Abridged from the Latest Edition of The Quarto Dictionary of Noah Webster, LL.D. By William G. Webster And William A. Wheeler Illustrated with more than Three Hundred Engravings on Wood.

the right whereof they claim as proprietors in conformity with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights." 297

A copy deposited
June 22, 1868.

Clerk of the District.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights. 297

Copyright Office of the United States of America,
Washington, D. C.

DISTRICT OF MASSACHUSETTS. To Wit:

District Clerk's Office.

BE IT REMEMBERED, That, on the sixth day of December Anno Domini 1869 G. & C. Merriam of the said District, have deposited in this Office the Title of a Book the title of which is in the words following, to wit: 297

A Pocket Dictionary Of The English Language. Abridged from the American Dictionary of Noah Webster, LL. D., By William G. Webster And William A. Wheeler Illustrated with nearly Two Hundred Engravings on Wood.

973

Complainant's Exhibits.

the right whereof they claim as proprietors in conformity with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights."

EDWARD DEXTER

Clerk of the District.

2974

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

THORVALD SOLBERG,

[SEAL]

Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

DISTRICT OF MASSACHUSETTS. To Wit:

2975

District Clerk's Office.

BE IT REMEMBERED, That, on the twenty-seventh day of July Anno Domini 1867 G. & C. Merriam of the said District, have deposited in this Office the Title of a Book the title of which is in the words following, to wit:

2976

Appendix To Webster's Dictionary: Containing A glossary of Scottish Words and Phrases; A Vocabulary of Perfect and Allowable Rhymes; A Concise Account of the Chief Deities, Heroes, Etc., In the Greek and Roman Mythology; Explanatory and Pronouncing Vocabularies Of Modern Geographical Names and Common English Christian Names; Pronouncing Vocabularies of Scripture Proper Names; Greek and Latin Proper Names; Modern Geographical Names and Modern Biographical Names; And Explanatory Tables of Quotations, Words, Phrases, Etc., from the Greek, the Latin, and Modern Foreign Languages; Abbreviations used in Writing and Printing; And Arbitrary Signs used in Writing and Printing. To which are added Pictorial Illustrations of Certain Terms defined in the Preceding Dictionary.

Copyright Certificates.

2977

the right whereof they claim as proprietors in conformity with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights."

A copy deposited Oct. 10, 1867.

ELISHA BASSETT

Clerk of the District pro tem.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912. 2978

[SEAL]

THORVALD SOLBERG,

Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

DISTRICT OF MASSACHUSETTS. To Wit:

2979

District Clerk's Office.

BE IT REMEMBERED, That, on the twenty-seventh day of July Anno Domini 1867 G. & C. Merriam of the said District, have deposited in this Office the Title of a Book the title of which is in the words following, to wit:

A Common-School Dictionary of the English Language, Explanatory, Pronouncing, and Synonymous. With an Appendix containing various useful tables. Mainly abridged from the latest edition of the American Dictionary of Noah Webster, LL. D., By William G. Webster and William A. Wheeler. Illustrated with nearly Two Hundred and Fifty Engravings on Wood. 2980

the right whereof they claim as proprietors in conformity with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights."

A copy deposited Jan. 22, 1868.

ELISHA BASSETT,

Clerk of the District pro tem.

2981

Complainant's Exhibits.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

2982

DISTRICT OF MASSACHUSETTS. To Wit:

District Clerk's Office.

BE IT REMEMBERED, That, on the twenty-seventh day of July Anno Domini 1867 G. & C. Merriam of the said District, have deposited in this Office the Title of a Book the title of which is in the words following, to wit:

2983 A Primary School Dictionary of the English Language, Explanatory, Pronouncing, and Synonymous. With an Appendix containing various useful tables. Mainly abridged from the latest edition of the American Dictionary of Noah Webster, LL. D., By William G. Webster and William A. Wheeler. Illustrated with nearly Two Hundred Engravings on Wood.

the right whereof they claim as proprietors in conformity with an Act of Congress, entitled, "An Act to amend the several Acts respecting Copyrights."

A copy deposited Jan. 22, 1868.

2984

ELISHA BASSETT,
Clerk of the District pro tem.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

Copyright Certificates.

2985

1877, No. 14569H.

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 14th day of December, 1877, G. & C. Merriam, of Springfield, Mass., have deposited in this office the title of a Book the title or description of which is in the following words, to wit:

Webster's Handy Dictionary of the English Language; (etc.). From the latest Edition of the large Dictionary of Noah Webster, LL. D. By Loomis J. Campbell. New York: Ivison, Blakeman, Taylor & Co., 1878. 2986

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912. 2987

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

2988

1877, No. 12345H.

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 26th day of October, 1877, G. & C. Merriam, of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

Webster's Handy Dictionary. A Handy Dictionary of

2989

Complainant's Exhibits.

the English Language; giving the spelling, pronunciation (etc.), and many engravings from the latest edition of the large dictionary of Noah Webster, LL.D. By Loomis J. Campbell.

2990

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copy-rights.

A. R. SPOFFORD,
Librarian of Congress.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

THORVALD SOLBERG,
Register of Copyrights.

[SEAL]

2991 Copyright Office of the United States of America,
Washington, D. C.

1879, No. 2578K.

A

LIBRARY OF CONGRESS, to wit:

2992 BE IT REMEMBERED: That on the 24th day of February, 1879, G. & C. Merriam, of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

New Edition with Supplement. An American Dictionary of the English Language. By Noah Webster, LL.D. Thoroughly revised, and greatly enlarged and improved. By Channey A. Goodrich, D.D., and Noah Porter, D.D., with an appendix of useful tables, to which is added a supplement of nearly five thousand new words with their definitions, etc. Springfield, Mass.: G. & C. Merriam, 1879.

Copyright Certificates.

2993

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912. 2994

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

1879, No. 2579K.

A

2995.

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 24th day of February, 1879, G. & C. Merriam, of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

Appendix to Webster's Dictionary. Containing Explanatory and Pronouncing Vocabularies of the names of noted fictitious persons, places, etc. Modern Geographical Names; and Common English Christian Names; with their Equivalents in several other languages; pronouncing vocabularies of Scripture, proper names, greek and latin proper names, and modern geographical names, also a new pronouncing Biographical Dictionary and explanatory Tables (etc.), to which is added a classified selection of Pictorial Illustrations. Springfield, Mass.: G. & C. Merriam, 1879. 2996.

the right whereof they claim as proprietors in conform-

2997

Complainant's Exhibits.

ity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

2998

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

THORVALD SOLBERG,
Register of Copyrights.

[SEAL]

Copyright Office of the United States of America,
Washington, D. C.

1879, No. 2580K

A

2999 LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 24th day of February, 1879, G. & C. Merriam, of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

A Pronouncing Biographical Dictionary, containing nearly ten thousand names of Noteworthy Persons, with their nationality, their station, their profession or occupation, and the dates of their birth and death, etc., etc., etc. Compiled and arranged by Loomis J. Campbell.
3000 Springfield, Mass., G. & C. Merriam.

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof,

Copyright Certificates.

3001

the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

1879, No. 2581K

3002

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 24th day of February, 1879, G. & C. Merriam, of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

Supplement of Additional Words and Definitions.

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights. 3003

A. R. SPOFFORD,
Librarian of Congress.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL]

THORVALD SOLBERG, 3004
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

3005

Complainant's Exhibits.

1879, No. 15248K

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 13th day of November, 1879, John Marshall Wood, of the United States, has deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

3006 A Handy Dictionary of the English Language; giving the spelling, pronunciation, and meanings of the Words, useful Tables, the Metric System, etc., and many Engravings. New York: 1879.

the right whereof he claims as proprietor in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

3007

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

THORVALD SOLBERG,
Register of Copyrights.

[SEAL]

Copyright Office of the United States of America,
Washington, D. C.

3008

1882, No. 4391N.

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 20th day of March, 1882, G. & C. Merriam, of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

Subscription Edition, with historical supplement. An American Dictionary of the English Language, by Noah

Copyright Certificates.

3009

Webster, LL.D. (etc.), with an Appendix of useful Tables (etc.), also a New Pronouncing Biographical Dictionary (etc.), with a Historical Supplement. Springfield, Mass., G. & C. Merriam, 1882.

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

3010

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL] THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

3011

1882, No. 4392N.

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 20th day of March, 1882, G. & C. Merriam, of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

Historical Supplement of Webster's Unabridged Dictionary, containing a brief history of the United States of America; together with lives of the Presidents from Washington to Arthur, and accounts, historical and descriptive, of the thirty-eight States of the Union (etc.), and valuable statistics of the civil and industrial condition of the principal nations of the world, and a map of the United States. Springfield, Mass., G. & C. Merriam, 1882.

3012

3013

Complainant's Exhibits.

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

3014

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL] THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

1882, No. 21765N

A

3015

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 22nd day of December, 1882, John Marshall Wood, of the United States, has deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

A People's Dictionary of the English Language; to which is added The People's Manual in Two Parts. Part 1, The American Republic, and its Constitutional Government. Part 2, Compendum of Popular Information.

3016 New York: 1882.

the right whereof he claims as proprietor in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof,

Copyright Certificates.

3017

the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

1884, No. 20365P.

3018

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 9th day of October, 1884, G. & C. Merriam & Co., of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit.

Webster's Practical Dictionary. A Practical Dictionary of the English Language (etc.), chiefly derived from Webster's Unabridged Dictionary. Edited under the supervision of Noah Porter, D.D., LL.D. By Dorsey Gardner. With nearly Fifteen Hundred Illustrations.

3019

New York and Chicago: Ivson, Blakeman, Taylor and Company. Springfield, Mass: G. & C. Merriam and Company. 1884.

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

3020

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

3021

Complainant's Exhibits.

1884, No. 20366P

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 9th day of October, 1884, G. & C. Merriam & Co., of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

3022 Webster's Condensed Dictionary, a Condensed Dictionary of the English Language, with Copious Etymological Derivation (etc.), chiefly derived from the unabridged dictionary of Noah Webster, LL.D. Edited under the supervision of Noah Porter, D.D., LL.D. By Dorsey Gardner, with over fifteen hundred illustrations.

New York and Chicago, Ivison, Blakeman, Taylor and Company. Springfield, Mass., G. & C. Merriam and Company, 1884.

3023 the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

THORVALD SOLBERG,
Register of Copyrights.

3024

[SEAL]

Copyright Office of the United States of America,
Washington, D. C.

Copyright Certificates.

3025

1884, No. 20367P.

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 9th day of October, 1884, G. & C. Merriam & Co., of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

Appendix to Webster's Dictionary: (etc.). Explanatory and Pronouncing vocabularies of modern geographical names and common English Christian Names (etc.), and a supplement of nearly four thousand new words and meanings. Springfield, Mass.: G. & C. Merriam & Co. 3026

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912. 3027

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

3028

1885, No. 309Q

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 5th day of January, 1885, G. & C. Merriam & Co., of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

New Edition with Supplement. An American Diction-

3029

Complainant's Exhibits.

ary of the English Language. By Noah Webster, LL.D. Thoroughly revised and greatly enlarged and improved. By Chauncey A. Goodrich, D.D., and Noah Porter, D.D., LL.D. With an appendix of useful Tables (etc.). A New Pronouncing Gazetteer of the World (etc.). Also a New Pronouncing Biographical Dictionary (etc.).

Springfield, Mass.: G. & C. Merriam & Co., 1885.

3030

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

3031

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

1886, No. 9837R.

A

LIBRARY OF CONGRESS, to wit:

3032

BE IT REMEMBERED: That on the 23rd day of April, 1886, G. & C. Merriam & Co., of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

Subscription Edition, with Compendium. A Dictionary of the English Language (etc.), of Noah Webster, LL.D., with supplement of nearly four thousand new words and meanings, and a New Compendium, Historical and Statistical, of the Nations of the World, Illustrated

Copyright Certificates.

3033

by more than six hundred Engravings on Wood, and eight pages Colored Plates.

Springfield, Mass., G. & C. Merriam & Co., 1886.

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress. 3034

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

THORVALD SOLBERG,
Register of Copyrights.

[SEAL]

Copyright Office of the United States of America,
Washington, D. C.

3035

1890, No. 21194V.

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 2d day of July, 1890, G. & C. Merriam & Co., of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit.

Webster's International Dictionary of the English Language. Being the authentic edition of Webster's Unabridged Dictionary, comprising the issues of 1864, 1879 and 1884. Now thoroughly revised and enlarged under the supervision of Noah Porter, D.D., LL.D., of Yale University. With a voluminous appendix. Springfield, Mass., G. & C. Merriam & Co., 1890. 3036

the right whereof they claim as proprietors in conform-

3037

Complainant's Exhibits.

ity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

3038

THORVALD SOLBERG,
Register of Copyrights.

[SEAL.]

Copyright Office of the United States of America,
Washington, D. C.

1890, No. 31856V.

A

3039 LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 14th day of October, 1890, G. & C. Merriam & Co., of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

3040 Historical Supplement to Webster's International Dictionary, containing a brief history of the United States of America; with brief biographies of the Presidents from Washington to Harrison, and accounts, historical and descriptive, of the Forty-four States of the Union, and of the Territories (etc.). Statistical tables of population (etc.). A List of the Chief Cities and Statistics of the Civil and Industrial condition of the principal nations. Illustrated. Springfield, Mass., G. & C. Merriam & Co.

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

Copyright Certificates.

3041

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

3042

1892, No. 36769X

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 8th day of September, 1892, G. & C. Merriam Co., of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

A Pronouncing Gazetteer or Geographical Dictionary 3043
of the World. By Titus Munson Coan, A. M., M. D.
Springfield, Mass., G. & C. Merriam Company.

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

I hereby certify that the foregoing is a true copy of 3044
the original record of copyright. In witness whereof,
the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

3045

Complainant's Exhibits.

1892, No. 32753X

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 9th day of August, 1892, G. & C. Merriam Co., of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

- 3046 Webster's High School Dictionary. A Dictionary of the English Language With an Appendix Abridged from Webster's International Dictionary 800 Illustrations. Springfield, Mass., G. & C. Merriam Co.

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

- 3047 I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

THORVALD SOLBERG,
Register of Copyrights.

[SEAL]

Copyright Office of the United States of America,
Washington, D. C.

3048

1892, No. 32754X

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 9th day of August, 1892, G. & C. Merriam Co., of Springfield Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

Webster's Common School Dictionary. A Dictionary of the English Language Designed for use in Common

Copyright Certificates.

3049

Schools, Abridged from Webster's International Dictionary. 500 Illustrations. Springfield, Mass., G. & C. Merriam Co.

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress. 3050

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL] THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

3051

1892, No. 2087X

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 27th day of September, 1892, G. & C. Merriam Co., of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

A Dictionary of the English Language Designed for use in Primary Schools, Abridged from Webster's International Dictionary, 400 Illustrations. 3052

New York, Cincinnati, Chicago. American Book Company, Springfield, Mass.: G. & C. Merriam Co.

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

A. R. SPOFFORD,
Librarian of Congress.

3053

Complainant's Exhibits.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

THORVALD SOLBERG,
Register of Copyrights.

[SEAL]

Copyright Office of the United States of America,
Washington, D. C.

3054

1895, No. 19964AA.

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 11th day of April, 1895, G. & C. Merriam Co., of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

3055 Webster's Academic Dictionary. A Dictionary of the English Language Giving the Derivations, Punctuations, Definitions and Synonyms of a Large Vocabulary of the Words in Common Use. With an appendix containing various useful Tables Abridged From Webster's International Dictionary. Over 800 Illustrations. Springfield, Mass., G. & C. Merriam Co.

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

3056

A. R. SPOFFORD,
Librarian of Congress.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

THORVALD SOLBERG,
Register of Copyrights.

[SEAL]

Copyright Office of the United States of America,
Washington, D. C.

Copyright Certificates.

3057

1896, No. 36958B².

A

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the 25th day of June, 1896, G. & C. Merriam Co., of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

Webster's Countinghouse Dictionary. A Dictionary of the English Language. Many Abridged From Webster's International Dictionary. Springfield, Mass.: G. & C. Merriam Co. 3058

the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copy-rights.

A. R. SPOFFORD,
Librarian of Congress.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912. 3059

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

1898, No. 53047.

B

3060

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the tenth day of September, 1898, G. & C. Merriam Co., of Springfield, Mass., have deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

Webster's Collegiate Dictionary. A Dictionary of the English Language giving the derivations, pronunciations,

3061

Complainant's Exhibits.

definitions and synonyms of a large vocabulary of the words occurring in literature, art, science, and the common speech. With an appendix containing a copious Scotch Glossary, a pronouncing vocabulary of proper names, and various other useful tables. Mainly abridged from Webster's International Dictionary. Over 1100 Illustrations. G. & C. Merriam Co., Springfield, Mass.

- 3062 the right whereof they claim as proprietors in conformity with the laws of the United States respecting Copyrights.

JOHN RUSSEL YOUNG,
Librarian of Congress.

By
THORVALD SOLBERG,
Register of Copyrights.

Office of the Register of Copyrights,
Washington, D. C.

3063

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL] THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

3064

1898, No. 34290.

B

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the fourth day of June, 1898, G. & C. Merriam Co., of Springfield, Mass., hath deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

Australasian Edition, Webster's International Dic-

Copyright Certificates.

3065

tionary of the English Language, being the Authentic Edition of Webster's Unabridged Dictionary comprising the issues of 1864, 1879 and 1884, now thoroughly revised and enlarged under the supervision of Noah Porter, D.D., LL.D. With a voluminous appendix and an Australasian supplement. Springfield, Mass., G. & C. Merriam Co., 1898.

the right whereof it claims as proprietor in conformity with the laws of the United States respecting Copyrights.

3066

JOHN RUSSEL YOUNG,
Librarian of Congress.

By
THORVALD SOLBERG,
Register of Copyrights.

Office of the Register of Copyrights,
Washington, D. C.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

3067

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

3068

1898, No. 63233.

B

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the twenty-eighth day of October, 1898, G. & C. Merriam Company, of Springfield, Mass., hath deposited in this office the title of a Book, the title or description of which is in the following words, to wit:

6069

Complainant's Exhibits.

Historical Supplement to Webster's International Dictionary, including a brief history of the United States: The Union, The States; The Presidents; The events by date. A brief chronological history of all nations; from 6000 B. C. to the present time; with political and social conditions of all modern countries, tables and charts. G. & C. Merriam Co., Springfield, Mass.

6070 the right whereof it claims as proprietor in conformity with the laws of the United States respecting Copyrights.

JOHN RUSSEL YOUNG,
Librarian of Congress.

By
THORVALD SOLBERG,
Register of Copyrights.

Office of the Register of Copyrights,
6071 Washington, D. C.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL] THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

6072

Class A., XXc. No. 20887.

E

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the twenty-first day of August, 1900, G. & C. Merriam Company, of Springfield, Mass., hath deposited in this office the title of a Book, the title of which is in the following words, to wit:

Copyright Certificates.

3073

New edition with supplement of new words, Webster's International Dictionary of the English Language, Noah Porter, D.D., LL.D. With a voluminous appendix to which is now added a supplement of twenty-five thousand words and phrases. W. T. Harris, Ph.D., LL.D., Editor-in-chief. Springfield, Mass.: G. & C. Merriam Co., 1900.

the right whereof it claims as proprietor in conformity with the laws of the United States respecting Copyrights. 3074

HERBERT PUTNAM,
Librarian of Congress.

By
THORVALD SOLBERG,
Register of Copyrights.

Office of the Register of Copyrights,
Washington, D. C.

3075

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL.] THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

3076

Class A, XXc. No. 63275.

E

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the third day of July, 1903, G. & C. Merriam Company, of Springfield, Mass., hath deposited in this office the title of a Book, the title of which is in the following words, to wit:

3077

Complainant's Exhibits.

Webster's Unabridged Dictionary. An American Dictionary of the English Language by Noah Webster, LL.D. thoroughly revised and greatly enlarged and improved by Chauncey A. Goodrich, D.D. and Noah Porter, D.D., LL.D. With an appendix of useful tables including recent population statistics of the world and a supplement of more than five thousand words and phrases.

3078 the right whereof it claims as proprietor in conformity with the laws of the United States respecting Copyrights.

HERBERT PUTNAM,
Librarian of Congress.

By
THORVALD SOLBERG,
Register of Copyrights.

Office of the Register of Copyrights,
Washington, D. C.

3079

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

3080

Class A, XXc. No. 63276.

E

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the third day of July, 1903, G. and C. Merriam Company, of Springfield, Mass., hath deposited in this office the title of a Book, the title of which is in the following words, to wit:

Copyright Certificates.

3081

Supplement of Additional Words and Definitions to the 1864 edition of Webster's Unabridged Dictionary.

the right whereof it claims as proprietor in conformity with the laws of the United States respecting Copyrights.

HERBERT PUTNAM,
Librarian of Congress.

By
THORVALD SOLBERG,
Register of Copyrights. 3082

Office of the Register of Copyrights,
Washington, D. C.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights. 3083

Copyright Office of the United States of America,
Washington, D. C.

Class A, XXc. No. 120984.

E

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the sixth day of July, 1905, G. & C. Merriam Company, of Springfield, Mass., hath deposited in this office the title of a Book, the title of which is in the following words, to wit. 3084

Webster's Little Gem Dictionary and Reference Manual Abridged from Webster's International Dictionary. A large pronouncing vocabulary with definitions, synonyms, use of capitals, etc. Springfield, Mass., U. S. A., G. & C. Merriam Co., 1905.

3085

Complainant's Exhibits.

the right whereof it claims as proprietor in conformity with the laws of the United States respecting Copyrights.

HERBERT PUTNAM,
Librarian of Congress.

By
THORVALD SOLBERG,
Register of Copyrights.

3086

Office of the Register of Copyrights,
Washington, D. C.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL] THORVALD SOLBERG,
Register of Copyrights.

3087

Copyright Office of the United States of America,
Washington, D. C.

Class A, XXc. No. 125378.

E

LIBRARY OF CONGRESS, to wit:

3088

BE IT REMEMBERED: That on the second day of September, 1905, G. & C. Merriam Company, of Springfield, Mass., hath deposited in this office the title of a Book, the title of which is in the following words, to wit:

Australasian Edition, Webster's International Dictionary of the English Language. Being the authentic edition of Webster's Unabridged Dictionary, comprising the issues of 1864, 1879, and 1884, thoroughly revised and much enlarged under the supervision of Noah Porter, D.D., LL.D. With a voluminous appendix to which is now added a supplement of twenty-five thousand words and phrases. W. T. Harris, Ph.D., LL.D., Editor-in-

Copyright Certificates.

3089

chief. Springfield, Mass.: U. S. A., G. & C. Merriam Company, 1906.

the right whereof it claims as proprietor in conformity with the laws of the United States respecting Copyrights.

HERBERT PUTNAM,
Librarian of Congress.

By
THORVALD SOLBERG,
Register of Copyrights. 3090

Office of the Register of Copyrights,
Washington, D. C.

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

THORVALD SOLBERG,
Register of Copyrights. 3091

[SEAL]

Copyright Office of the United States of America,
Washington, D. C.

Class A, XXc. No. 149443.

E

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the twenty-sixth day of June, 1906, G. & C. Merriam Company, of Springfield, Mass., hath deposited in this office the title of a Book, the title of which is in the following words, to wit:

3092

Webster's Practical Dictionary. A Practical Dictionary of the English Language giving the correct spelling, pronunciation and definitions of words based on the Unabridged Dictionary of Noah Webster, LL.D. With an appendix comprising a pronouncing vocabulary of

3093

Complainant's Exhibits.

biblical, classical, mythological, historical, and geographical proper names; [etc]. Edited under the supervision of Noah Porter, D.D., LL.D. by Dorsey Gardner. With nearly fifteen hundred illustrations. Springfield, Mass.: G. & C. Merriam Co., 1906.

3094

the right whereof it claims as proprietor in conformity with the laws of the United States respecting Copyrights.

HERBERT PUTNAM,
Librarian of Congress.

By
THORVALD SOLBERG,
Register of Copyrights.

Office of the Register of Copyrights,
Washington, D. C.

3095

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

3096

Class A, XXc. No. 149442.

E

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the twenty-sixth day of June, 1906, G. & C. Merriam Company, of Springfield, Mass., hath deposited in this office the title of a Book, the title of which is in the following words, to wit:

Webster's Condensed Dictionary. A Condensed Dictionary of the English Language giving the correct spel-

Copyright Certificates.

3097

ling, pronunciation and definition of words based on the Unabridged Dictionary of Noah Webster, LL.D. With an appendix comprising a pronouncing vocabulary of biblical, classical, mythological, historical and geographical proper names; [etc.]. Edited under the supervision of Noah Porter, D.D., LL.D. By Dorsey Gardner. With nearly fifteen hundred illustrations. Springfield, Mass.: G. & C. Merriam Co., 1906.

the right whereof it claims as proprietor in conformity with the laws of the United States respecting Copyrights.

3098

HERBERT PUTNAM,
Librarian of Congress.

By
THORVALD SOLBERG,
Register of Copyrights.

Office of the Register of Copyrights,
Washington, D. C.

3099

I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

3100

Class A, XXc. No. 149444.

E

LIBRARY OF CONGRESS, to wit:

BE IT REMEMBERED: That on the twenty-sixth day of June, 1906, G. and C. Merriam Company, of Springfield, Mass., hath deposited in this office the title of a Book, the title of which is in the following words, to wit:

3101

Complainant's Exhibits.

Webster's Practical Dictionary. A practical dictionary of the English Language giving the correct spelling, pronunciation and definitions of words based on the Unabridged Dictionary of Noah Webster, LL.D., Edited under the supervision of Noah Porter, D.D., LL.D., by Dorsey Gardner. With nearly fifteen hundred illustrations. Springfield, Mass.: G. & C. Merriam Co., 1906.

3102 the right whereof it claims as proprietor in conformity with the laws of the United States respecting Copyrights.

HERBERT PUTNAM,
Librarian of Congress.

By
THORVALD SOLBERG,
Register of Copyrights.

Office of the Register of Copyrights,
Washington, D. C.

3103 I hereby certify that the foregoing is a true copy of the original record of copyright. In witness whereof, the seal of this Office has been hereto affixed this twenty-second day of March, 1912.

[SEAL] THORVALD SOLBERG,
Register of Copyrights.

Copyright Office of the United States of America,
Washington, D. C.

3104

COPYRIGHT OFFICE OF THE
UNITED STATES OF AMERICA

Library of Congress
Washington, D. C.

CERTIFICATE OF COPYRIGHT REGISTRATION

THIS IS TO CERTIFY, In conformity with section 55 of the Act to Amend and Consolidate the Acts respecting Copyright, approved March 4, 1909, that TWO copies of the

Copyright Registration Certificates.

3105

BOOK named herein have been deposited in this Office under the provisions of the said Act, together with the AFFIDAVIT prescribed in section 16 thereof; and that an entry for copyright for the first term of 28 years from the date of publication of said book has been duly registered in the name of G. & C. Merriam Co., Springfield, Mass. Book entitled Webster's New International Dictionary of the English Language, W. T. Harris, F. Sturges Allen, Editors. Springfield, Mass., G. & C. Merriam Company.

3106

Date of publication Sept. 17, 1909.

Copies received Sept. 20, 1909.

Affidavit received Sept. 20, 1909.

Entry: Class A, XXc, No. 246829.

THORVALD SOLBERG,

Register of Copyrights.

[SEAL]

3107

COPYRIGHT OFFICE OF THE
UNITED STATES OF AMERICA

Library of Congress
Washington, D. C.

A¹

CERTIFICATE OF COPYRIGHT REGISTRATION

THIS IS TO CERTIFY, In conformity with section 55 of the Act to Amend and Consolidate the Acts respecting Copyright, approved March 4, 1909, that TWO copies of the BOOK named herein have been deposited in this Office under the provisions of the said Act, together with the AFFIDAVIT prescribed in section 16 thereof; and that an entry for copyright for the first term of 28 years from the date of publication of said book has been duly registered in the name of G. & C. Merriam Co., Springfield, Mass. Book entitled A Condensed Dictionary of the English Language, [etc.] based on the Unabridged Dictionary of Noah Webster. Illustrated 20th Century

3108

3109

Complainant's Exhibits.

edition, Noah Porter, Dorsey Gardner, Editors. Springfield, G. & C. Merriam Co., 1909.

Date of publication Oct. 2, 1909.

Copies received Oct. 12, 1909.

Affidavit received Oct. 12, 1909.

Entry: Class A, XXc, No. 248454.

THORVALD SOLBERG,

Register of Copyrights.

3110

[SEAL]

A¹

COPYRIGHT OFFICE OF THE
UNITED STATES OF AMERICA

Library of Congress
Washington, D. C.

CERTIFICATE OF COPYRIGHT REGISTRATION

THIS IS TO CERTIFY, In conformity with section 55 of the
 3111 Act to Amend and Consolidate the Acts respecting Copyright, approved March 4, 1909, that TWO copies of the BOOK named herein have been deposited in this Office under the provisions of the said Act, together with the AFFIDAVIT prescribed in section 16 thereof; and that an entry for copyright for the first term of 28 years from the date of publication of said book has been duly registered in the name of G. & C. Merriam Co., Springfield, Mass. Book entitled Reference History Edition. Webster's New International Dictionary of the English
 3112 Language, [etc.] With a reference history of the world, W. T. Harris, Editor-in-chief, F. Sturges Allen, General Editor. Springfield: G. & C. Merriam Co.

Date of publication Oct. 8, 1909.

Copies received Oct. 13, 1909.

Affidavit received Oct. 13, 1909.

Entry: Class A, XXc, No. 248516.

THORVALD SOLBERG,

Register of Copyrights.

[SEAL]

Copyright Registration Certificates.

3113

COPYRIGHT OFFICE OF THE
UNITED STATES OF AMERICA

A¹
Library of Congress
Washington, D. C.

CERTIFICATE OF COPYRIGHT REGISTRATION

THIS IS TO CERTIFY, In conformity with section 55 of the Act to Amend and Consolidate the Acts respecting Copyright, approved March 4, 1909, that TWO copies of the BOOK named herein have been deposited in this Office under the provisions of the said Act, together with the AFFIDAVIT prescribed in section 16 thereof; and that an entry for copyright for the term of 28 years from the the date of publication of said book has been duly registered in the name of G. & C. Merriam Company, Springfield, Mass. Book entitled Australasian Edition. Webster's New International Dictionary of the English Language. W. T. Harris, Editor. Springfield: G. & C. Merriam Co.

3114

Date of publication Dec. 24, 1909.
Copies received Dec. 31, 1909.

3115

Affidavit received Dec. 31, 1909.
Entry: Class A, XXe, No. 253649.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights.

COPYRIGHT OFFICE OF THE
UNITED STATES OF AMERICA

A¹
Library of Congress
Washington, D. C.

3116

CERTIFICATE OF COPYRIGHT REGISTRATION

THIS IS TO CERTIFY, In conformity with section 55 of the Act to Amend and Consolidate the Acts respecting Copyright, approved March 4, 1909, that TWO copies of the BOOK named herein have been deposited in this Office under the provisions of the said Act, together with the

3117

Complainant's Exhibits.

AFFIDAVIT prescribed in section 16 thereof; and that an entry for copyright for the first term of 28 years from the date of publication of said book has been duly registered in the name of G. & C. Merriam Co., Springfield, Mass. Book entitled Webster's Practical Dictionary. A practical dictionary of the English Language, Noah Porter, Dorsey Gardner (et al) Editors. Springfield: G. & C. Merriam Co., 1910.

3118

Date of publication June 21, 1910.

Copies received June 25, 1910.

Affidavit received June 25, 1910.

Entry: Class A, XXc, No. 265939.

THORVALD SOLBERG,

[SEAL]

Register of Copyrights.

3119

COPYRIGHT OFFICE OF THE
UNITED STATES OF AMERICA

Library of Congress
Washington, D. C.

A¹

CERTIFICATE OF COPYRIGHT REGISTRATION

3120

THIS IS TO CERTIFY, In conformity with section 55 of the Act to Amend and Consolidate the Acts respecting Copyright, approved March 4, 1909, that TWO copies of the BOOK named herein have been deposited in this Office under the provisions of the said Act, together with the AFFIDAVIT prescribed in section 16 thereof; and that an entry for copyright for the first term of 28 years from the date of publication of said book has been duly registered in the name of G. & C. Merriam Co., Springfield, Mass. Book entitled Webster's Collegiate Dictionary. Thin paper edition de luxe. A Dictionary of the English

Copyright Registration Certificates.

3121

Language. Illustrations. Springfield, Mass.: G. & C. Merriam Co., 1910.

Date of publication Aug. 8, 1910.

Copies received Aug. 9, 1910.

Affidavit received Aug. 9, 1910.

Entry: Class A, XXc, No. 268842.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights. 3122

COPYRIGHT OFFICE OF THE
UNITED STATES OF AMERICA

A¹
Library of Congress
Washington, D. C.

CERTIFICATE OF COPYRIGHT REGISTRATION

THIS IS TO CERTIFY, In conformity with section 55 of the Act to Amend and Consolidate the Acts respecting Copyright, approved March 4, 1909, that TWO copies of the BOOK named herein have been deposited in this Office under the provisions of the said Act, together with the AFFIDAVIT prescribed in section 16 thereof; and that an entry for copyright for the first term of 28 years from the date of publication of said book has been duly registered in the name of G. & C. Merriam Co., Springfield, Mass. Book entitled Webster's Little Gem Dictionary and Reference Manual abridged from Webster's International Dictionary. Springfield, Mass.: G. & C. Merriam Co., 1912. 3123

Date of publication Oct. 9, 1911.

Copies received Oct. 11, 1911.

Affidavit received Oct. 11, 1912.

Entry: Class A, XXc, No. 299187.

[SEAL]

THORVALD SOLBERG,
Register of Copyrights. 3124



"Webster Contract of 1853."

This Indenture between William W. Ellsworth of Hartford, Conn. and his wife Emily W. Ellsworth; Chauncey A. Goodrich of New Haven, Conn. and his wife Julia W. Goodrich; Henry Jones of Bridgeport, Conn. and his wife Eliza S. W. Jones; and William G. Webster of New Haven, Conn. and their Executors, Administrators and Assigns, *parties of the first part*; and Messrs. G. & C. Merriam and their successors of Springfield, Mass. and their Executors, Administrators and Assigns, *parties of the second part*, 3130

Witnesseth:

That, *Whereas* renewals may be obtained by the surviving children of Noah Webster L.L.D. on the copyright of his American Dictionary from April 14, 1856, and on the copyright of his Elementary Spelling Book from May 22, 1857; and

Whereas the said William G. Webster and his sisters Emily W., Julia W., and Eliza S. W., and their husbands aforesaid, have united their prospective interest in said renewals, and engaged by mutual covenants, that whichever of said children of Dr. Webster may live to take part in said renewals, shall hold the same for the joint benefit of the whole collectively; and 3131

Whereas the parties of the second part have obtained from the parties of the first part the right of publishing said American Dictionary, so far as the same may be conferred by renewal on the parties of the first part; and are desirous to obtain a like right in reference to said Elementary Spelling Book, together with the privilege of making a revision of the same and of said American Dictionary, and also the right of making and publishing certain Abridgements of the said American Dictionary or of publishing certain Abridgements now published by F. J. Huntington of New York, or improved editions of the same; 3132

3133

Complainant's Exhibits.

Therefore, with a view to make a permanent arrangement on this subject,

The parties of the first part, in consideration of the covenants herein and hereafter made by the parties of the second part, do hereby covenant and agree with the same, *as follows*: each one covenanting for himself only and not to be liable for the others, any more than if this contract was *several* throughout.

- 3134 1. That they will take all necessary and legal measures to obtain said renewals in the names of said William G. Webster, Emily W. Ellsworth, Julia W. Goodrich, Eliza S. W. Jones, and Louisa Webster, children of said Noah Webster, or such of them as may be alive at the time for obtaining such renewals; Or will permit and do hereby authorize and permit, said G. & C. Merriam or their Assigns to take the usual and proper measures and proceedings to obtain a renewal of said copyrights, in 1856 and 1857, in behalf of the children of Dr. Webster who are parties to this instrument; nor will said parties of the
- 3135 first part do or assent to any act which shall defeat or impair the right hereby vested in said G. & C. Merriam.
2. That whatever share they may thus obtain in the right of publishing said Dictionary and Spelling Book, the same (when acquired) shall be transferred to and vest in the parties of the second part, for the whole period of its duration by law: And they do hereby assign and convey to said parties of the second part all the title and interest which they may at any time obtain in said exclusive right; and do further covenant, that whenever they
- 3136 shall obtain any such share, they will execute all further conveyances which may be deemed necessary to perfect this grant, and fully to vest said exclusive right in the parties of the second part.
3. That the parties of the second part may make a revision of said Dictionary, and a new Webster's Spelling Book, or revised edition of the present Spelling Book at their own expense through the agency of persons to be appointed by the parties of the first part (whenever required by the parties of the second part); and may take

out copyrights of said revisions and said new Speller in their own names, and for the exclusive benefit of said parties of the second part. And they may publish said revised edition of the American Dictionary, and said new Speller or revised edition of the present speller or both the present Speller and a new Speller if they so desire.

4. That the parties of the second part may at their own expense, through the agency of persons to be appointed by the parties of the first part (as provided for above), make and publish new Abridgements of said American Dictionary, corresponding in size and matter to the present Academic, High School, Primary, and Pocket Dictionaries, and also an intermediate Abridgement between said High School and Primary; or may prepare & publish new and improved editions of the present Academic, High School, and Primary Dictionaries, and a new Pocket and Intermediate. And they may take out copyrights on said Abridgements in their own names, and for the exclusive benefit of the parties of the second part; Provided, however, that the said Ellsworth, being Executor or Trustee of the Estate of said Noah Webster, is not hereby to be held as granting any interest which he holds in said character, but only the interest which he and his wife may have under the renewals aforesaid. 3138

5. That said parties of the first part will not make nor license the making of any Abridgement of said American Dictionary which is smaller in size or matter than the University Abridgement, so called. And if a larger Abridgement be at any time substituted through their agency, in the place of said University, such larger Abridgement shall be intermediate in size and matter between the present Academic and the Royal Octavo now published by Messrs. Harpers and shall be larger than the University aforesaid. And the parties of the first part will bind the publishers thereof, while they continue to print under the copyright thereon, not to make any Abridgement smaller than the one thus substituted; and will give to the parties of the second part the benefit of such restriction, with power to sue (if necessary) for the 3140

3141

Complainant's Exhibits.

3142

3143

3144

enforcement thereof. And they do further agree, that they will not authorize the publication at *one* and the *same* time, of both said University and said new Abridgement, unless compelled to allow the continuance of the publication of the University by present legal obligations to Francis J. Huntington. And said parties of the first part (or either of them) will not license the publication of the present Pocket Dictionary in any form than the present, so as to assume the form or to be called by the name of a School Dictionary; nor will they authorize any other party to make or publish any Abridgement of a size less than the present Academic, so as to interfere with the rights and interests of said parties of the second part.

6. That they will give to the parties of the second part the full benefit of a certain covenant made by Messrs. Harper & Brothers, and Messrs. White & Sheffield with the parties of the first part or their legal representatives, 1847, which covenant is substantially in the following words: "That they will not without the permission of the parties of the first part or their legal representatives make any further additions to the Octavo edition of the American Dictionary, which shall be inconsistent with its orthography and general principles, or shall increase the size of the same beyond what may arise from the insertion of new words with their definitions, not now found in said American Dictionary;" and the parties of the second part shall have power if necessary, to sue for the enforcement of said covenant. And they further agree, that if through their agency, any restrictions be hereafter imposed on any revision of said Royal Octavo Dictionary, the parties of the second part shall have the benefit of the same with like power to sue for the enforcement thereof.

7. That the parties of the second part may bring all suits which they shall deem necessary for the protection of the copyrights obtained under the renewals, aforesaid, saving only that in cases involving the estate of said Noah Webster, no such suit shall be brought, if the Executors of the estate of Dr. Webster shall within three months after being appraised in writing of the intention of said

parties of the second part to bring a specified suit, object in writing to its being brought. And all papers in the hands of the parties of the first part which are requisite to the prosecution of said suits, shall be duly furnished for the purposes aforesaid.

8. That, during the fourteen years embraced by the renewals aforesaid, the parties of the first part will not make any English Dictionary or Spelling Book which may interfere with the sale of any of the books herein granted to the parties of the second part. 3146

The parties of the second part, then, in consideration of the premises, to hereby covenant and agree with the parties of the first part, as follows:

9. That they will publish the American Dictionary and Spelling Book from the time of the renewal of their respective copyrights; and also the several future Abridgements mentioned above, (reserving the right, however, to delay or wholly omit the publication of the aforesaid Pocket and Intermediate Dictionaries, but without enjoying on that account any deduction from the payments on the score of abridged Dictionaries provided for in the tenth article of this instrument.) 3147

The publication of said Abridgements shall commence from April 14, 1856, unless said time as to the latter shall be extended by an agreement between the parties to this instrument: *Provided*, however, that if it shall appear that F. J. Huntington has a legal right to publish either or all of the three following works (now published by him) after April 14, 1856, viz. the Academic, High School & Primary, then for such length of time as his right to publish such work or works shall extend, said parties of the second part shall not be under obligation to publish the corresponding Abridgment or Abridgments, but the copyright money actually paid by said Huntington on such work or works shall apply toward the payment of the \$5000. referred to in the tenth article of this instrument or of the percentage on the commutation of the same provided for in the 16th article thereof. 3148

10. That they will make payments to the parties of the

Complainant's Exhibits.

first part for the above mentioned rights & privileges on the basis of the following estimate of the *entire* value of each, (Louisa Webster's share in the same, if she lives to renew, being included therein), viz.

(a) Right of publishing the American Dictionary with copyright of revision thereon (if made) Five Thousand five hundred dollars (\$5,500) a year for the term of fourteen years from April 14, 1856.

3150

(b) The privilege of making the revisions and Abridgments aforesaid and of taking out the copyrights thereof, together with the rights and privileges secured by the relinquishments under article (c) in the declarative statement toward the close of this instrument, One thousand dollars (\$1,000) a year, for the same term of fourteen years from April 14, 1856.

(c) Right of publishing the Abridgments aforesaid with copyrights thereon, Five thousand dollars (\$5,000) a year, for the same term of fourteen years from April 14th, 1856.

3151

(d) Right of publishing the Elementary Spelling Book with copyright of revision thereon (if made), or new Speller with copyright thereof, or new and present Spel'er conjoined, Twenty-five hundred dollars (\$2,500) a year, for the term of fourteen years from May 22d, 1857.

3152

And it is hereby agreed, that whatever share the parties of the first part shall, by renewal, obtain in the copyright of the American Dictionary, they shall receive in payment thereof the same share or proportion of the three first mentioned sums (marked a, b, c, and amounting to \$11,500.) during the term of fourteen years from April 14th, 1856; and so also of the share they may obtain in the copyright of the Elementary Spelling Book, and of the last mentioned sum (marked d, being \$2500.) corresponding thereto.

And the parties of the second part do hereby covenant to make said payments in semi-annual installments, during said periods of fourteen years aforesaid, (dating from April 14, 1856 and May 22, 1857 respectively), to

some agent to be appointed by the parties of the first part for the joint and equal benefit of the same in accordance with the arrangement between them already referred to in this instrument.

11. That, if they shall fail to make said payments on the prescribed day, and (notice of said failure being sent them through the Post Office), they shall persist in said failure during four weeks after said day of payment, then the parties of the second part do covenant, that they will submit to and incur a *forfeiture* of all their right to publish the books for which they thus fail to pay; That is to say, if they fail to pay at the rate of \$2,500 a year for the Spelling Book or the new Speller, they shall forfeit the right to publish said Spelling Book, with the copyright of any revision they may have made thereof, and also any new Speller they may have made together with its copyright: If they fail to pay at the rate of \$5,000 a year for the aforesaid Abridgments of the American Dictionary, they shall forfeit the right of publishing all such Abridgments of every kind with the copyrights thereof; if they fail to pay the sum of \$1000. a year for the privilege of making said revisions and Abridgments, or to pay at the rate of \$5,500 a year for the American Dictionary, they shall in either case forfeit the right to publish said Dictionary with the copyright of any revision already made or to be made thereof; and said right to publish, together with all said copyrights, shall from that time forth be the property of the parties of the first part. Provided, however, that if said parties of the second part shall *voluntarily elect* to incur said forfeitures, or either of them, by ceasing to publish said American Dictionary, said Abridgments, and said Spelling Book, or Speller, or either of them, and shall notify said parties of the first part of such election and shall pay up in full all past arrearages due on account of such work or works which have thus ceased to be published by them, they shall make a further payment, in case they cease to publish the American Dictionary, of sixteen thousand five hundred dollars (\$16,-

3154

3155

3156

3157

Complainant's Exhibits.

500.); in case they cease to publish said Abridgments, they shall pay the further sum of Fifteen thousand dollars (\$15,000.); and in case they cease to publish said Spelling Book or Speller they shall pay the further sum of Seven thousand five hundred dollars (\$7,500.). And when said payment or payments shall have been fully made by the said parties of the second part, they shall be exempt from any further obligations in reference to the work or works thus forfeited.

3158

12. That while they continue to publish said American Dictionary under said renewal (or under the copyright obtained under the revision of 1847, or, under the copyright of the contemplated Revision of said Dictionary, they will not make any material change in the orthography or present plan of said work, unless authorized and sanctioned by a majority of the children of Dr. Webster who are then alive (Louisa Webster not being included therein), or by the President and Professor of Rhetoric (for the time being) in Yale College. Nor will they publish the same in the Octavo form of any size whatever (by Octavo form being understood the form of the present Royal Octavo Abridgment published by Messrs. Harpers) or in any form which shall encroach more than the present one, on the Royal Octavo Abridgment of said American Dictionary.

3159

13. That, while they continue to publish the Abridgments aforesaid, they will publish no Abridgment of the American Dictionary which shall exceed the present Academic printed by Francis J. Huntington in respect to the size of said volume, or which shall contain more than three per cent of *matter* beyond that embraced in said Academic, or in the work corresponding to or substituted for said Academic, to be prepared as provided in this instrument. And the parties of the second part do agree, that if they violate this covenant they will submit to a forfeiture of all their right to publish said Abridgment with the copyright thereon, in case they persist in such violation (notice of the same being sent through the Post Office or otherwise) during the period of three calendar months from the time said notice is given.

3160

Contracts and Assignments.

3161

14. That they will save harmless the parties of the first part, together with William W. Ellsworth and Henry White as Executors or representatives of the estate of said Noah Webster, from a'l expenses that may arise out of any claim of Francis J. Huntington or others touching the publication of any of the Webster Abridged Dictionaries of which he is now publisher; or any of the Abridgments provided for in this instrument, consequent upon any action or neglect of the said G. & C. Merriam their Executors, Administrators or Assigns. And the parties of the second part do covenant to carry on at their own charge, all suits that may arise out of such claims and also all suits which they commence for the protection of the rights obtained by the renewals aforesaid. 3162

15. That in case of their forfeiting the right to publish any of the books aforesaid, under the provisions of this instrument, the parties of the second part, if so required, will within ten days thereafter deliver the metallic plates of said forfeited books to the parties of the first part, and receive for the same what shall be estimated as their fair value by three persons, of whom one shall be chosen by each of the two parties to this instrument and the third by the individuals thus selected. 3163

The parties to this instrument do mutually covenant and agree as follows:

16. That in case the parties of the second part shall find it convenient in arranging with Francis J. Huntington touching his claim to publish any of the Abridgments now published by him as aforesaid (the University edition being always excepted) to unite said Huntington with them as publisher of the aforesaid Abridgments, or the new Abridgments herein provided for, then said parties of the second part, instead of making payment for said Abridgments at the rate of five thousand dollars per annum (\$5,000.) shall have the right to pay for the privilege of publishing each copy of said Abridgments at the rate of eight (8) cents on the Academic; of seven (7) cents on the High School; of four (4) cents on the 3164

3165

Complainant's Exhibits.

new intermediate book; of two and a half ($2\frac{1}{2}$) cents on the Primary; and of two (2) cents on the Pocket Dictionary. And from the time this change shall take place, and this mode of payment shall be adopted, the parties of the second part shall, at the expiration of each period of six months, furnish to the parties of the first part, the printers' certificate of all the copies of said Abridgments printed during said period and shall pay for each of said copies at the rate prescribed above. And if said parties of the second part shall fail to furnish said certificate and duly make the payments aforesaid, at the expiration of each period of six months, they shall incur the forfeitures established in the eleventh article of this instrument, according to the tenor thereof. Provided that said parties of the second part shall have the right at any time to return to the payment of Five thousand dollars (\$5,000) per annum, in lieu of said amounts per copy.

3166

3167

17. That if for any unforeseen cause, the copyright obtained by renewal on said American Dictionary or on said Spelling Book should at any time fail and become of no effect, then and in that case the parties of the second part shall have the option while they continue to publish the work whose copyright has thus failed, of paying for the right of publishing said Dictionary at the rate of sixty (60) cents a copy in lieu of paying the sum of Five thousand and five hundred dollars (\$5,500.) per annum, therefor, as agreed above; and so for the right of publishing said Spelling Book at the rate of five mills per copy in lieu of paying Twenty five hundred dollars (\$2,500.) therefor as also agreed above. And in this case, the parties of the second part shall return the printers certificate and make their payments according to the above rates, in the way prescribed in the last preceding article, and shall be liable to the same forfeitures in default of payment thereon.

3168

18. That if Louisa Webster should live to take part in the renewals aforesaid, she may be made a party to

this instrument by the signature of her legal Guardian giving his assent to the same.

19. That no assignment of their interest in this contract shall be made by said G. & C. Merriam or their Executors or Administrators without the written consent of a majority of the parties of the first part.

20. That, Whereas this instrument is designed to carry into effect certain contracts between the parties to the same in reference to the publication of the American Dictionary, it is hereby understood and agreed, that in whatever respects the provisions of this instrument supercede or set aside said contracts, the latter shall so far be null and void; but in all other respects, they shall remain in full effect. 3170

21. The parties to this contract do hereby covenant with each other for the faithful performance of the engagements herein contained; and do declare the following to be the true intent of the foregoing instrument, viz.

(a) That the parties of the first part, acting only for themselves severally, and making no engagements whatever in behalf of said Louisa Webster, do contract to give to the parties of the second part all the rights which may be secured to the parties of the first part under the renewals aforesaid, with the privilege thereby vested in them of making the revisions and Abridgments specified above; but without assuming any further *responsibility* or entering into any *guarantees* whatever touching the same. 3171

(b) That the parties of the second part undertake to publish the books mentioned above; subject to the payments or to the forfeitures established in relation to the same, and being also subject to the various stipulations concerning said books and matters relating to the same, enumerated above. 3172

(c) That from and after the expiration of the fourteen Years embraced by said renewals, the parties of the first part do relinquish all further claims on the American Dictionary and Elementary Spelling Book together with all the above-mentioned future Abridgments, and trans-

3173

Complainant's Exhibits.

3174

fer the same to the said parties of the second part, so far as any pecuniary recompense is concerned; leaving the parties of the second part to enjoy without further payment, all the income which may accrue therefrom; and binding them only, while they continue to publish as hereinbefore agreed, for said fourteen years under the aforesaid renewals or under the copyrights of the Abridgment of 1847, or of the contemplated revision, as well as the copyrights of the Abridgments aforesaid, not to alter the books thus published in such a manner as to encroach on the rights of those who publish the other Abridgments of said American Dictionary or in any manner which may be inconsistent with the orthography or general plan of Dr. Webster, in his American Dictionary and Spelling Book, except as hereinbefore provided.

In testimony whereof, we have hereto set our hands this first day of November 1853.

3175

WM. W. ELLSWORTH
 EMILY W. ELLSWORTH
 CHAUNCEY A. GOODRICH
 JULIA W. GOODRICH
 HENRY JONES
 E. S. W. JONES
 WM. G. WEBSTER
 LOUISA WEBSTER

3176

by Henry White her conservator hereto empowered by resolve of the General Assembly of the State of Connecticut, and in pursuance of the provisions of the foregoing contract she became a party hereunto.

Duplicate copy
 signed Sept. 1855.

"Lippincott Contract of 1858."

J. B. Lippincott & Co. agree to sell and G. & C. Merriam agree to purchase all of said J. B. Lippincott & Co.'s interest in the two Abridgments of Webster's American Dictionary, known as the Royal Octavo and New University, with the stereotype plates of the same, said Lippincott & Co. to assign all their interest in existing contracts with the heirs of Dr. Webster and others, relating to said books, to G. & C. Merriam, who are to assume and fulfill all existing contracts and obligations relative to said books, assumed by said Lippincott & Co. or to enter into equivalent obligations with said Lippincott & Co. it being understood that the rights conveyed are, those of publishing said Octavo, exclusively, up to a period of fourteen years from the date of its last copy-right in June 1857,—by paying the renewers \$1800 per annum and the New University down to the end of the fourteen years aforesaid, i. e. June, 1871,—paying therefor to the family \$1600 per annum, and on this being done, said works, with all matters now in them, to be the exclusive property of said Merriams, and no farther compensation to be made the family therefor—said Merriams to pay said Lippincott & Co. for said transfer and rights fifty thousand dollars, one half in cash, and one half in ten years, without interest. 3178

2. Said Lippincott & Co. to enjoy the exclusive right to publish the said Octavo Abridgment down to June, 1871, aforesaid, paying said Merriams seventy five cents per copy for each copy issued, giving printer's certificate of numbers,—payable \$900 on 1st of January and July each year, and balance 60 days thereafter for what shall have been sold during previous six months,—the copy-right on New University to be thirty five cents per copy, payable to the Merriams \$800 1st Jan'y and July, balance 60 days,—said Merriams reserving the right to have what numbers of New University they desire, if any, for their own sale at ten per cent. above cost. 3179

3. Said Lippincott & Co. to receive what copies of the Unabridged Dictionary they require for their own sales, 3180

3181

Complainant's Exhibits.

at three dollars and sixty two and a half cents (\$3.62 1/2) per copy, with privilege of manufacturing for themselves instead, deducting from said \$3.62 1/2 the sum said Merriams have to pay for manufacturing the work—said Merriams purchasing their stereotype plates for this purpose, yet without cost to themselves of transportation, or incommoding themselves as to their own manufacture,—J. B. L. & Co. guaranteeing plates from damage,—adjustable on 1st of January and July by note at four months.

3182

4. Said G. & C. Merriam agree to make such revisions and renewals in the plates of the two Dictionaries as may be mutually deemed necessary, stereotyping such revisions and improvements at their own charge.

5. Said Merriams may cancel this arrangement as far as the Quarto Dictionary is concerned, at any time, by giving six months notice, and paying said Lippincott & Co. ten thousand dollars.

3183

6. If new quarto, from added matter or other causes, should cost more to manufacture than now, said Lippincott & Co. shall pay such added costs on copies they receive.

7. The stereotype plates to be kept constantly insured by said Lippincott & Co. at their own charge, and passed over to said Merriams, when time of arrangement expires.

8. Messrs. Lippincott & Co. to make thorough and earnest effort for the sale of the three Dictionaries embraced in this contract, for the Webster system, and not to become interested in works that would conflict.

3184

9. If Mr. Lippincott ceases to be member of the house, G. & C. Merriam may, if they elect, make the \$10,000 forfeiture \$5000.

Contract not to be assigned or pass to other parties without G. & C. M.'s consent,—vacated if conditions not fulfilled.

J. B. L. & Co.'s net Trade price of quarto to be not less than \$5 as Trade arrangements now are.

J. B. LIPPINCOTT & Co.
G. & C. MERRIAM.

New York }
Sept. 3rd, 1858.}

**Contract and Assignment of the University
and Pocket Dictionaries.**

An agreement entered into this twenty fifth day of April 1844, between William W. Ellsworth and Henry White, as Executors of the late Honb'l Noah Webster, on the one part, and Huntington and Savage of the City of New York on the other part, Witnesseth.

Said executors agree, within a reasonable time, and by a competent person or persons, to prepare for publication, the following works viz, a new abridgement of the American Dictionary of the English Language in Quarto, including the recent additions made to said work in the last edition of the same, in two volumes royal Quarto; which abridgement is to consist chiefly of additions to the larger school dictionary, now published by Huntington and Savage; the vocabulary and definitions of said abridgement are to be more copious and complete than those of the larger of the two school dictionaries now published by the said Huntington and Savage aforesaid. and to contain such other matter appropriate to a good dictionary as the said executors may deem expedient: the whole to form when printed one duodecimo volume (so called) of about 500 pages, but the amount of matter in the same, to be subject to the pleasure of said executors. When this shall have been published (or at any earlier period, if the parties shall so agree,) they engage to prepare or cause to be prepared by a like competent person or persons, a pocket edition of said work, to make a volume of about the size, shape and number of pages of Tegg's London copy of "Johnson's pocket Dictionary of the English Language." And said executors for themselves and their successors engage to provide some suitable and competent person or persons, to read and correct the proof for the present and all future new sets of stereotype plates of said works, and to ensure to the said publishers by such careful preparation of copy, and thorough proof reading, the greatest possible accuracy to the said work, free of charge or expense, of any kind, to the said publishers to his heirs or assigns.

3186

3187

3188

3190

3191

3192

The said executors for themselves and their successors agree, that they will take all legal necessary and proper measures to secure, so far as it can by law be secured by them in their said capacity, a copyright for the said works aforesaid, for the sole benefit of said estate; and the said Huntington and Savage, their heirs, executors and assigns shall have the sole and exclusive right, so far as said executors, as such, can give the right, of publishing the said Works for the full time and period of twenty eight years from the date of the copyright, and the said exclusive right (so far as said executors can give it) of publication is hereby vested in the said Huntington and Savage, their heirs and assigns accordingly. And for the purpose of securing the said Huntington and Savage their heirs or assigns from the competition or the infringement of said rights and privileges in any manner or form by the issue of works of rival or similar character, or of books intended, fitted or calculated to fill or occupy the same place in public use as the aforesaid volumes said executors for themselves and their successors further agree, that during the said twenty eight years, they as executors afor'sd, will not prepare or cause, license, or give their permission to prepare, any new work or works abridged or compiled from any of the works of the late Noah Webster, which shall be either in form or matter materially and substantially the same books. In consideration whereof the said Huntington and Savage their heirs or assigns do undertake and promise said executors and their representatives, that during the said term of twenty eight years, or during such a portion of the said time as the said executors or their successors can and do secure to the said Huntington and Savage their heirs and assigns the said sole and exclusive right of publication of said works respectively, they will pay the said executors their representatives or assigns Ten cents for each and every copy of the duodecimo and Three and a half cents for each and every copy of the pocket edition of said works while they the said Huntington & Savage or their heirs or assigns shall publish, and that at

Contracts and Assignments.

3193

all times they will during said period that the rights of publication and immunities afo'sd shall be secured to them keep the market well and fully supplied with said works.

The copyright money shall be payable as follows viz on the first week in January and July semi-annually, during the af'sd period of twenty eight years, or of such a portion of the same as the said exclusive rights shall be secured to the said Huntington and Savage their heirs and assigns, they the said Huntington & Savage their heirs and assigns do undertake and promise to render to the said executors their representatives or assigns a statement of the respective quantities and date of each edition of each of said books printed by them, their heirs or assigns, during the preceding six months, duly certified by the printer of the same; for each and every copy so certified by the printer, the aforesaid sum per copy respectively shall be paid by the said Huntington & Savage's note payable in six months from the aforesaid semi-annual periods.

3194

3195

And if said Huntington & Savage or their heirs or assigns shall neglect to present said statement aforesaid on demand, at the periods aforesaid, or shall neglect to execute and pay said notes as aforesaid, this contract shall be null and void at the election of said executors their representatives or assigns.

This contract shall not be held or construed to affect in any way the two contracts already existing between said estate and said Huntington & Savage respecting the two school dictionaries now published by them, nor the right of said executors or whoever is or may be interested in said two dictionaries, but the same and said existing contracts respecting the same shall be and remain as if this present contract had not been made.

3196

WM. W. ELLSWORTH
HENRY WHITE
HUNTINGTON & SAVAGE.

And if said Huntington & Savage or their assigns, shall

3197

Complainant's Exhibits.

fail to fulfill their part of this contract, it shall be void at the election of the executors and their assigns. And if said Huntington & Savage or their assigns shall cease to publish said books then this contract shall be void at the like election of the said executors or their assigns.

HUNTINGTON & SAVAGE
WM. W. ELLSWORTH

3198 I, Francis J. Huntington for myself and the firm of Huntington & Savage for value received do hereby sell assign and transfer the foregoing contract and all the advantages to be derived therefrom to G. & C. Merriam.

Witness my hand and seal this 12th day of April 1854.

Sealed and delivered
in the presence of

F. J. HUNTINGTON. (Seal)

W. HUTCHINS.

3199 In consideration of the foregoing assignment and for value received we hereby assume all obligation and duties on the part of the assignors to the executors of Dr. Webster and engage faithfully henceforth to fulfill the same.

Witness

G. & C. MERRIAM.

W. HUTCHINS.

April 12, 1854.

3200 We the executors of the estate of the late Dr. Noah Webster do hereby license and accept said Transfer from said Francis J. Huntington and Huntington & Savage to G. & C. Merriam and release said Francis J. Huntington and Huntington & Savage from any further liabilities upon the same.

W. W. ELLSWORTH
HENRY WHITE

Whereas F. J. Huntington has this day, in behalf of himself & Huntington & Savage made an assignment to us the undersigned, of the University and Pocket Dictionaries and contract therefor, And Whereas we the undersigned have accepted said assignment, and agreed to

fulfill the covenants of said F. J. Huntington & Huntington & Savage touching the same with the Executors of Dr. Webster's Estate, Wm. W. Ellsworth and Henry White, and Whereas the Executors have accepted us as assignees of said Contract, all as hereinbefore expressed, now therefore, in consideration of the premises, and one dollar—received to our satisfaction, we do covenant with said Executors, to keep and fulfill all the duties & obligations which were obligatory upon said Huntington or said Huntington & Savage in virtue of said contract.

3202

G & C MERRIEM,
Springfield, April 12, 1854.

Contract and Assignment of Webster's High School Dictionary.

An agreement between Wm. W. Ellsworth & Henry White, as executors of the late Hon. Noah Webster, on the one part, and Huntington & Savage of the City of New York on the other part; witnesseth:

3203

The executors agree on their part, that within a reasonable time, they will have prepared, by a suitable and competent person (& Wm. G. Webster, Esqr., is expected to be the individual) an improved and corrected copy of the present twelve mo school dictionary, now & for some ten years past, published by said Huntington & Savage. The said copy is to be prepared for a duodecimo volume, as formerly understood, of about three hundred and sixty pages, having a vocabulary of some forty thousand words; to be a pronouncing dictionary—with some other little improvements, such as a more accurate money table, a list of geographical names, &c. at the pleasure of the parties.

3204

The executors are to employ a competent person to read and correct the proof, for the present and all future sets of plates, so as to ensure a correct book; all which

3205

Complainant's Exhibits.

3206

is to be done free of charge to said Huntington & Savage. The executors so far as it can be done by them, in their said capacity, agree to take the usual and proper measures to obtain a copyright of said book, in the office of the clerk of the District Court of the District of Connecticut, for the benefit of the estate of said Webster, & when the same is done, they agree, for a consideration hereinafter named, that said Huntington & Savage, their heirs & assigns may have, for the full term of twenty-eight years from the date of said Copy-right, the full & free use & enjoyment of said copy-right during said time, so far as the executors as such can give them the same; and said right, so far as given as afore-said, is hereby vested in said Huntington & Savage.

3207

And for the better security of said Huntington & Savage, their heirs and assigns, the said executors agree to refrain from doing any act, as executors of Dr. Webster, which shall impair or injure said right or interest so vested in said Huntington & Savage, their heirs or assigns, and further, that they will themselves, during the continuance of this contract, or will permit said Huntington & Savage their heirs or assigns, at the expense of said estate, to take the necessary and proper legal measures, to guard and preserve said interest so vested, from all illegal depreciations & violations.

3208

In consideration whereof, the said Huntington & Savage on their part agree, that at their own expense they will stereotype & publish said book, in a duodecimo form as formerly understood, & keep the market supplied with the same during said twenty-eight years, or so long as they shall have the right to publish the same.

And for payment of copy-right, the parties agree to take the number of the present book published since the death of Dr. Webster, and average said number of the present book at the rate per year, since said event to the date of this contract, and upon said annual average number of the said new book, said Huntington & Savage agree to pay in semi-annual payments, as herein-after named,

Contracts and Assignments.

3209

said executors, their successors or assigns, seven cents per copy, and on the number of said new book, and above & beyond said annual average number, to pay five & one-half cents per copy up to one further quarter of said annual average number, & five cents only, on each copy above & beyond said annual average number and the one further quarter of said annual average number, they, or their heirs, or assigns shall publish.

And said Huntington & Savage, their heirs or assigns shall render to said executors, their successors or assigns an account semi-annually, i. e., on the first week of January and July of each year, during the whole time of said copy-right, of the number of books published, during the six months respectively preceding said first weeks in January & July, & shall accompany said semi-annual account always, with the printer's certificate, certifying the time and number of said books by him or them published as aforesaid. 3210

And said Huntington & Savage, shall always with said semi-annual accounts and certificates, send to said executors their successors or assigns, their promissory note for the sum due as aforesaid for said books, at the rates afore-said for the then last six months, which notes shall bear date the first or second day of January and the first or second day of July, each year, respectively, payable in six months from date at some bank in Hartford. And if said book shall cease to be published, or said Huntington & Savage shall fail to keep and perform any and each of the foregoing stipulations on their part, or to pay their said notes as they shall become due, then the said executors their successors or assigns, at their pleasure may terminate this contract thereafter, giving thirty days notice & said payment being still neglected, said executors, their successors or assigns shall have the sole right to publish said book thereafter & shall take the plates for said book at their then value, to be appraised by some indifferent person, if the parties cannot agree to said value. 3211 3212

And it is further agreed by the parties, that if the said

3213

Complainant's Exhibits.

executors at any future time shall be unable to secure to said Huntington & Savage, their heirs or assigns, and sole & exclusive right to publish said dictionary, then from & after said period, they, the said Huntington & Savage, their heirs or assigns shall be under no obligation to perform any of the acts herein before named, the said contract shall become null & void thereafter.

3214

All copy received from the editor shall be considered and held to be good and satisfactory. The said Huntington & Savage shall make no material alterations in said book without consent of said executors, their successors or assigns. This contract is to have no effect after the 22d day of May, 1857, upon those of Dr. Webster's family who may then be interested, in their own right, in said present twelve mo dictionary, except as to such new copyright matter belonging to said estate of Dr. Webster, or to said executors, as is by virtue of this contract vested in said Huntington & Savage, their heirs or assigns.

3215

In testimony whereof we have hereunto set our names this sixth day of October 1847 at the city of Hartford.

WM. W. ELLSWORTH

HENRY WHITE

HUNTINGTON & SAVAGE

I, Francis J. Huntington for myself and the firm of Huntington & Savage for value received do hereby assign, sell and transfer the foregoing contract and all the advantages be derived therefrom to G. & C. Merriam.

3216

Witness my hand and seal this 12 day of April, A. D. 1854.

F. J. HUNTINGTON (Seal)

Sealed and delivered
in presence of

W. HUTCHINS.

In consideration of the foregoing assignment and for value received we hereby assume all obligations and duties on the part of the Assignors to the Executors of Dr.

Contracts and Assignments.

3217

Webster and engage faithfully henceforth to fulfill the same.

G. & C. MERRIAM.

Witness,
W. HUTCHINS.

APRIL 12, 1854.

We the Executors of the estate of the late Dr. Noah Webster do hereby license and accept said transfer from said Francis J. Huntington and Huntington & Savage to G. & C. Merriam and release said Francis J. Huntington and Huntington and Savage from any further liabilities upon the same. 3218

HENRY WHITE.

Whereas F. J. Huntington has this day, in behalf of himself & Huntington & Savage made an assignment to us the undersigned, of the High School Dictionary, and correct therefor, And Whereas we the undersigned have accepted said assignment, and agreed to fulfill the covenants of said F. J. Huntington & Huntington & Savage touching the same with the Executors of Dr. Webster's Estate Wm. W. Ellsworth & Henry White And whereas the Executors have accepted us as assignees of said contract all as hereinbefore expressed now therefore in consideration of the premises and one dollar received to our satisfaction, we do covenant with said Executors to keep & fulfill all the duties & obligations which were obligatory upon said Huntington or said Huntington & Savage in virtue of said contract. 3219

G. & C. MERRIAM.

Springfield, April 12, 1854. 3220

**Contract and Assignment of Webster's
Academic Dictionary.**

KNOW ALL MEN BY THESE PRESENTS that I, WILLIAM W. ELLSWORTH of Hartford, Connecticut, acting executor of the Estate of Noah Webster, LL.D. deceased, in consider-

3221

Complainant's Exhibits.

3222 ation of one dollar to me in hand paid by Francis J. Huntington of said Hartford, and in consideration of the premises, do hereby, so far as I may do it as executor aforesaid, sell, transfer, and set over as aforesaid unto the said Huntington, his executors, administrators or assigns, all the right and interest of said Estate to publish a certain duodecimo School Dictionary known by the name of the "Academic" recently prepared for said Estate, by William G. Webster, Esq, and published in the year eighteen hundred and fifty, by the late house of Huntington and Savage, for and during the full unexpired term of twenty eight years from the date of the Copyright, which is the sixteenth day of September eighteen hundred and fifty.

3223 The conditions of the above Contract are as follow to wit, The said Huntington his executors, administrators, and assigns, shall in each of the months of January and July in each year, during the continuance of this contract, forward to said Ellsworth said executor, or his legal successor or representative of the said Estate of the said Noah Webster an accurate account of the number of said Books published during the six months severally preceding said months of January and July of each year, together with the printer's certificate of the number so printed, and for each and every number so printed the said Huntington shall pay at the rate of eight cents per copy, and the payment thereof may be made by the said Huntington giving his note for the amount so ascertained to be due, at the respective periods aforesaid, payable to

3224 said executor, his legal successor, or representative aforesaid, at six months from the first or second days of January or July as aforesaid. It is however agreed by the parties that no Copyright need be paid on any copies of said Dictionary given to Teachers, Editors, and others for the purposes of introduction, but such exemption shall terminate at the pleasure of said executor, or his successor upon giving notice. And if said Huntington, his executor, administrator, or assigns, shall for any cause, not continue to publish said Book, or shall make default in any of the particulars aforesaid, or in payment of said

Contracts and Assignments.

3225

notes when due, and said default shall continue thirty days, the said Ellsworth or his legal successor, or representative, may at his election put an end to the continuance of the Contract, and he or his said successor thereafter shall have the exclusive right to publish said Book, and may and shall take the then existing stereotype plates for said Book at an appraised value, to be ascertained by two disinterested and proper persons, each party to choose one, and they to choose a third if they cannot agree. 3226

And said Huntington his executors, administrators, or assigns, so long as he or they shall publish same, shall make suitable and proper efforts to have the said Book brought into use and shall keep the market supplied with the same, and a neglect to do this for six months shall work a forfeiture of this Contract, with the like effect and consequences as is above expressed. Nor shall any alteration in said Book be made without the consent of said Ellsworth or his said successor.

IN WITNESS whereof the parties to these presents have hereunto set their hands and affixed their seals this twenty eighth day of February One Thousand eight hundred and fifty two. 3227

WM. W. ELLSWORTH
Acting Executor on the
estate of Noah Webster,
LL.D.

F. J. HUNTINGTON

Signed sealed and delivered }
by the said Ellsworth in } ELIZABETH ELLSWORTH
the presence of } J 3228

Signed sealed and delivered } WM. WILSON
by the said Huntington in }
the presence of } WM. SHORT

I Francis J. Huntington for myself and the firm of Huntington & Savage for value received do hereby sell assign and transfer the foregoing contract and all the advantages to be derived therefrom to G. & C. Merriam.

3229

Complainant's Exhibits.

WITNESS my hand and seal this 12th day of April, 1854.

F. J. HUNTINGTON (seal)

Sealed and delivered
in the presence of

W. HUTCHINS.

3230

In consideration of the foregoing assignment and for value received we hereby assume all obligations and duties on the part of the assignors to the Executors of Dr. Webster and engage faithfully henceforth to fulfill the same.

Witness

G. & C. MERRIAM

W. HUTCHIN.

April 12, 1854.

3231

We the executors of the estate of the late Dr. Noah Webster do hereby license and accept said transfer from said Francis J. Huntington and Huntington and Savage to G. & C. Merriam and release said Francis J. Huntington and Huntington & Savage from any further liabilities upon the same.

HENRY WHITE.

3232

WHEREAS F. J. Huntington has this day, in behalf of himself and Huntington & Savage made an assignment to us the undersigned, of the Academic Dictionary, and contract therefor. And Whereas we the undersigned have accepted said assignment, and agreed to fulfill the covenants of said F. J. Huntington and Huntington & Savage touching the same with the Executors of Dr. Webster's Estate, Wm. W. Ellsworth and Henry White. And Whereas the Executors have accepted us as assignees of said Contract all as hereinbefore expressed, now, therefore in consideration of the premises and one dollar received to our satisfaction we do covenant with said Executors, to keep and fulfill all the duties and obligations which were obligatory upon said Huntington or said Huntington & Savage in virtue of said contract.

G. & C. MERRIAM

Springfield, April 12, 1854.

From copy O. M. B.

Delegation of Power to Executors by Heirs.

Whereas, by the will of the late Noah Webster, Wm. M. Ellsworth and others are named as executors, some of whom, it is expected will accept of said trust, and whereas, it may become important, for our interest in the estate of said Webster, that said executors should be clothed with other and more ample powers, touching the copyrights belonging to said estate, (in order that said executors may enter into necessary contracts in the use, license, or disposition of the same) than belong to them as executors; now therefore we do hereby agree with said executors or such of them as shall accept said trust, that they shall possess & are hereby clothed with full power from us, to enter into any contracts touching the use, licence, sale or disposition of said copyrights or any plates connected with the same, that we ourselves would do, and said persons or those who shall accept said trust, may bargain, grant, sell, & convey, according to their best judgment, with all necessary & proper covenants or provisions on their part, such copyrights & plates, for longer or shorter periods and such licenses in the enjoyment of the same as shall seem best to them and we authorize them, generally, to manage said copyrights & said plates for us & in our behalf in as full & ample a manner as we could do ourselves, ratifying & confirming, on our part, by these presents, whatever shall be done by said persons, in the premises.

June 1, 1843.

W. C. FOWLER

WM. W. ELLSWORTH

C. A. GOODRICH

H. TROWBRIDGE, JR.

WM. G. WEBSTER, reserving any
interest belonging to Webster
Clark of N. York.

HENRY JONES.

(Copy)

3236

3234

3235

**Contracts between Heirs and G. & C. Merriam
as to Abridged Dictionary.**

3238 This indenture between William W. Ellsworth of Hartford, Conn. and Emily W. Ellsworth his wife; Chauncey A. Goodrich of New Haven, Conn.; and Julia W. Goodrich his wife; Henry Jones of Bridgeport, Conn.; and Eliza S. W. Jones his wife, and William G. Webster of New Haven, Conn.; and their Executors, Administrators, and Assigns parties of the first part; and Messrs. G. & C. Merriam and their successors of Springfield, Mass; and their Executors, Administrators and Assigns, parties of the second part, Witnesseth,

3239 That, Whereas the parties to this Instrument have agreed in their contract of Nov. 1st, 1853, that said G. & C. Merriam may (through the agency of persons to be appointed by the parties of the first part) make a revision of Webster's American Dictionary, and certain new Abridgments thereof, provided the parties of the first part shall obtain a renewal of the Copyright of said Dictionary; and that said new Abridgments shall be published by G. & C. Merriam from and after the 14th day of April 1856; and Whereas the parties of the first part in conjunction with Louisa Webster have since endeavored to obtain, and suppose they have obtained all the rights and interests of William C. Fowler and Henry Trowbridge and his wife, from and after the aforesaid 14th day of April 1856 in the matter added by Dr. Webster to said American Dictionary in the year 1840, and
3240 also in the Abridgements of said Dictionary formerly published by Francis J. Huntington; so that if the aforesaid renewals should be obtained, all the property will vest from and after the said 14th day of April 1856 (being the date of said renewal) in the parties of the first part conjointly with Louisa Webster.

Therefore,

I. The parties of the first part each acting for himself individually and for no others, do hereby agree with said G. & C. Merriam as follows, in respect to their carrying

Contracts and Assignments.

3241

out the provisions of the aforesaid contract of November 1st, 1853, viz.

(a) That said Merriams may employ Chauncey A. Goodrich and William G. Webster to make the Revisions and Abridgments provided for in said contract.

(b) That said Merriams (so far as the parties of the first part have power to authorize the same) may continue to publish the Huntington Abridgements aforesaid, in conjunction with the above mentioned new Abridgements or in their stead, for any such length of time as they may desire after the aforesaid 14th day of April 1856. 3242

(c) That said G. & C. Merriam in making the Revision and new Abridgements aforesaid through said Goodrich and Webster or other persons duly appointed, may without any additional charge, use the matter added by Dr. Webster in his revision of 1840, and also any matter contained in the Huntington Abridgments aforesaid, so far and as long as the parties of the first part have power to authorize the same. 3243

II. The parties of the second part, in receiving the above grants, do hereby covenant that whether they publish the new Abridgements or the Huntington Abridgments, or both conjointly, they will pay for the same at the rate established in the tenth article of the Original Contract of Nov. 1st, 1853. That is to say, five thousand dollars (\$5,000) a year for the term of fourteen years from April 14th 1856, to be paid in semi-annual installments.

III. And Whereas William W. Ellsworth, one of the signers of this instrument, is in conjunction with Henry White, Executor of the will of the late Noah Webster, and has since the death of said Webster, united with said White, in their capacity of Executors as aforesaid, in causing to be made the above mentioned Abridgements formerly published by said F. J. Huntington, it is hereby understood and agreed that said Ellsworth is to be considered as releasing or licensing the use of so much only of the interest or matter of said books as he or his wife hold in their own right individually; and not what he 3244

3245

Complainant's Exhibits.

holds (if any he does or may hold) as Executor, or in his representative capacity; nor are any of his rights or duties of Executor aforesaid, to be affected by this Instrument. The purpose of which limitation is, to guard and save said Ellsworth and his Assigns against all liability or accountability to any person or persons (if such there are or may be) who have or may have claims on him, or his co-executor for the use and enjoyment of said matter and books as aforesaid—especially as no consideration is paid by said G. & C. Merriam for the license and permission herein before given.

3246

IV. The parties to this Instrument do hereby mutually agree, that Louisa Webster may be made a party to the same, by the signature of her legal Guardian giving his assent thereto.

Dated this 16th day of Feb. 1855.

3247

WM. W. ELLSWORTH
 EMILY W. ELLSWORTH
 W. G. WEBSTER
 JULIA W. GOODRICH
 CHAUNCEY A. GOODRICH
 HENRY JONES
 E. S. W. JONES
 LOUISA WEBSTER

3248

by Henry White her conservator hereto empowered by resolve of the General Assembly of the State of Connecticut, and in pursuance of the provisions of the foregoing contract she becomes a party hereto.

2-304

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

THIS IS TO CERTIFY, that the annexed is a true copy from the
Records of this office of the Certificate of
Registration, Statement, Declaration and Drawing, in the
matter of the

Trade-Mark

Registered by

G. & C. Merriam & Co.,

September 23, 1890,

Number 18,449,

for

Dictionaries.

The certificate of registration was granted for the term of thirty
years, and so far as is disclosed by the records of this office, said certificate
is still in full force and effect.

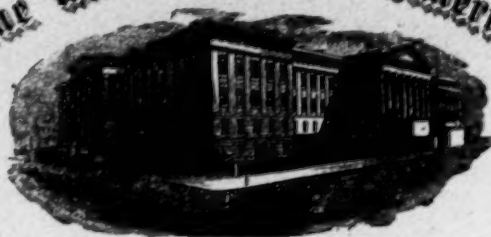
IN TESTIMONY WHEREOF I have hereunto set my
hand and caused the seal of the Patent Office to be
affixed at the City of Washington this 26th
day of March in the year of our Lord
one thousand nine hundred and twelve and
of the Independence of the United States of America
the one-hundred and thirty-sixth.



F. A. Munn
Assistant Commissioner of Patents

No. 18,449

The United States of America.



To all whom it may concern.

This is to Certify That by the records of the UNITED STATES PATENT OFFICE it appears that G. & C. Merriam & Co.,
 of
Springfield, Massachusetts,
 did, on the 15th day of August
1890, deposit in said Office for REGISTRATION fac-similes of a certain

TRADE-MARKfor Dictionaries

and the date of the receipt thereof was duly noted and recorded; that on the 15th day of August, 1890, they deposited therewith a statement, and a written declaration under the oath of Orlando M. Baker, a member of said firm copies of all of which are hereto annexed; and the said firm having made the payment of a fee of TWENTY-FIVE DOLLARS, and complied with the regulations in such cases prescribed by the COMMISSIONER OF PATENTS, and in all other respects complied with an Act of Congress approved March 3, 1834, entitled "An Act to authorize the Registration of Trade-Marks and protect the same," the said fac-similes, statement, and declaration were duly recorded, and the said TRADE-MARK has been duly registered in the said PATENT OFFICE this 23rd day of September, one thousand eight hundred and eighty ninety and protection therefor will remain in force for THIRTY YEARS from said date, unless sooner terminated in accordance with Section 8 of said Act.

In testimony whereof the seal of the Department of the Interior is hereto affixed this twenty-third day of September, 1890, and of the Independence of the United States the one hundred and fiftieth
 Given under my hand at Washington, D.C.

(SEAL)

C. F. Mitchell

(2-6-902)

Commissioner of Patents

815

TRADE-MARK.

G. & C. MERRIAM & CO.
DICTIONARIES.

No. 18,449.

Registered Sept. 23, 1890.



WEBSTER'S
INTERNATIONAL
DICTIONARY

Witnesses

Geo. W. Breen
C. E. Ashley

G. & C. Merriam & Co Proprietors

By their Attorney

Charles A. Judson

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM & CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES.

STATEMENT and DECLARATION of Trade-Mark No. 18,449, registered September 23, 1890.

Application filed August 18, 1890.

STATEMENT.

To all whom it may concern:

Be it known that we, G. & C. MERRIAM & Co., a firm domiciled and having an office and place of business in the city of Springfield, in the county of Hampden and State of Massachusetts, and composed of HOMER MERRIAM, GEORGE S. MERRIAM, ORLANDO M. BAKER, and H. CURTIS ROWLEY, residing at and citizens of said city of Springfield; BIRDSEYE BLAKEMAN and GEORGE R. CATHCART, residing at and citizens of the city, county, and State of New York; HENRY IVISON and DAVID B. IVISON, residing at and citizens of Rutherford, county of Bergen, and State of New Jersey, and L. HENRY BLAKEMAN, residing at and a citizen of Orange in the county of Essex and State of New Jersey, have adopted for our use a Trade-Mark for books, more especially Dictionaries, of which the following is a full, clear, and exact description.

Our trade-mark consists of an interwoven script cipher composed of the capital letters "N" and "W" partially surrounded by a wreath of flowers, leaves, or the like, the whole surmounting the words "Webster's International Dictionary." These have generally been arranged as shown in the accompanying fac-simile—i. e., in the form of a medallion upon the upper face of which is printed or embossed said interwoven script cipher "N

"W," said cipher being partially surrounded by a wreath of flowers or leaves, beneath which are the letters and words "Webster's International Dictionary," and the whole being placed within a circle, so as to form a medallion, all the other parts of said trade-mark, except the interwoven cipher "N W" and the words "WEBSTER'S INTERNATIONAL," which are essential features, being changeable at pleasure at our option without materially altering the character of our trade-mark.

This trade-mark in its entirety has been used continually in business by us since July 31, 1890.

The class of merchandise to which this trade-mark is appropriated is books, and the particular description of books comprised in such class on which it is used by us is dictionaries.

It has been our practice to stamp or print our said trade-mark on the title-page of the dictionaries and to stamp or emboss the same upon the outside or cover thereof, and also to print the same upon the outside of parcels containing said dictionaries, or to print the same upon tags or labels, which are secured to the goods in any desired manner.

G. & C. MERRIAM & CO.

Witnesses:

CHAS. S. CLEAVES,
A. G. BAKER.

DECLARATION.

State of Massachusetts, county of Hampden,
ss:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is a member of the firm the applicant named in the foregoing statement; that he verily believes that the foregoing statement is true; that the said firm at this time has a right to the use of the trade-mark therein described; that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to

deceive; that the trade-mark is used by the said firm in commerce between the United States and foreign nations, and particularly with England, and that the description and fac-similes presented for record truly represent the trade-mark sought to be registered.

ORLANDO M. BAKER.

Sworn and subscribed before me, a notary public, this 7th day of August, 1890.

[L. S.]

EDWARD MORRIS,
Notary Public.

2-304

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

THIS IS TO CERTIFY that the annexed is a true copy from the
Records of this office of the Certificate of
Registration, Statement, Declaration and Drawing, in the
matter of the

Trade-Mark

Registered by

the G. & C Merriam Company,

March 26, 1895,


Number 26,273,

for

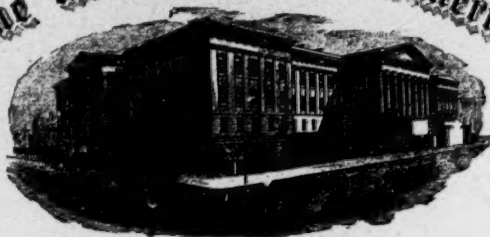
Educational Books.

The certificate of registration was granted for the term of thirty
years, and so far as is disclosed by the records of this office, said certificate
is still in full force and effect.

IN TESTIMONY WHEREOF I have hereunto set my
hand and caused the seal of the Patent Office to be
affixed at the City of Washington this 3rd.
day of April, in the year of our Lord
one thousand nine hundred and twelve and
of the Independence of the United States of America
the one hundred and thirty-sixth.


W. D. Merrill
Assistant Commissioner of Patents.

The United States of America.



To all to whom these presents shall come.

This is to Certify That by the records of the UNITED STATES PATENT OFFICE it appears that, the G. & C Merriam Company, of
Springfield, Massachusetts, a corporation organ-
ized under the laws of the State of Massachusetts
did, on the 21st day of February
1895, deposit in said Office for REGISTRATION fac-similes of a certain

TRADE-MARK

for Educational Books

and the date of the receipt thereof was duly noted and recorded; that on the 21st day of February, 1895, it deposited therewith a statement, and a written declaration under the oath of Orlando M. Baker, an officer of said corporation copies of all of which are hereto annexed; and the said corporation having made the payment of a fee of TWENTY-FIVE DOLLARS, and complied with the regulations in such cases prescribed by the COMMISSIONER OF PATENTS, and in all other respects complied with an Act of Congress approved March 3, 1881, entitled "An Act to authorize the Registration of Trade-Marks and protect the same," the said fac-similes, statement, and declaration were duly recorded, and the said TRADE-MARK has been duly registered in the said PATENT OFFICE this 25th day of March, one thousand eight hundred and ninety-five and protection therefor will remain in force for THIRTY YEARS from said date, unless sooner terminated in accordance with Section 5 of said Act.

In testimony whereof the seal of the Department of the Interior is hereto affixed this twenty-sixth day of March, 1895, and of the Independence of the United States the one hundred and nineteenth
Given under my hand at Washington, D.C.

(SEAL)

John S. Seymour

Commissioner of Patents.

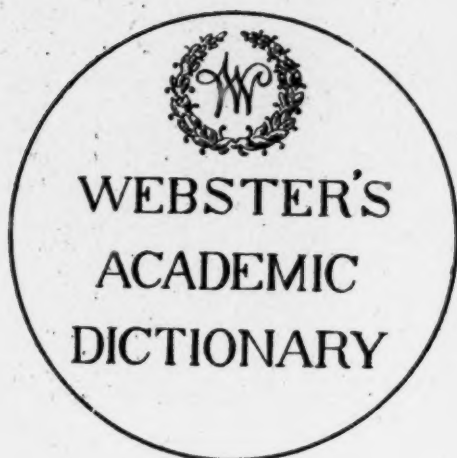
819

TRADE-MARK.

G. & C. MERRIAM COMPANY.
EDUCATIONAL BOOKS.

No. 26,273.

Registered Mar. 26, 1895.



WITNESSES:

Frank S. Ober
A. M. Hayes

PROPRIETOR:

G. & C. Merriam Company
BY
Charles H. Judson
ATTORNEY

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM COMPANY, OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR EDUCATIONAL BOOKS.

STATEMENT and DECLARATION of Trade-Mark No. 26,973, registered March 26, 1895.

Application filed February 21, 1895.

STATEMENT.

To all whom it may concern:

Be it known that the G. & C. MERRIAM COMPANY, a corporation organized under the laws of Massachusetts, and located in the city of Springfield, county of Hampden, and State of Massachusetts, has adopted for its use a Trade-Mark for Books, of which the following is a full, clear, and exact specification.

The said trade-mark consists in a monogram composed of the capital letters "N" and "W" together with the word "Webster's." These have generally been arranged as shown in the accompanying fac-simile; i.e., in the form of a medallion, upon the face of which is printed or embossed said monogram composed of the interwoven script letters "N W" partially surrounded by a wreath of flowers or leaves beneath which is the word "Webster's" together with such other word or words as may indicate the character of the book upon which it is placed, the whole being placed within a circle so as to produce in general effect the medallion-like appearance. These features are all shown in black in the accompanying drawing but any other design or color may be used or the different features may be differently colored or all or part of the non-essential features may be omitted or changed at pleasure and the mark may be used in conjunction with other matter with-

out materially affecting the character of the trade-mark, the essential features of which are the monogram composed of the letters "N" and "W" together with the word "WEBSTER'S."

This trade-mark in its entirety has been used continuously in business by said company since October, 1890.

The class of merchandise to which this trade-mark is appropriated is books and the particular description of books comprised in such class on which it is used by said company is educational books.

It has been the practice of said company to stamp or print its said trade-mark on the title page of the books and to stamp or emboss the same upon the outside or cover thereof, and also to print the same upon the outside of parcels containing said books or to print the same upon tags or labels.

[L. S.] G. & C. MERRIAM CO.,
By O. M. BAKER,
Treasurer.

Approved: HOMER MERRIAM,
President.

Witnesses:
THOS. H. STOCK,
A. G. BAKER.

DECLARATION.

State of Massachusetts, county of Hampden.

SS:

ORLANDO M. BAKER being duly sworn, deposes and says that he is the treasurer of the corporation named in the foregoing statement; that he verily believes that the foregoing statement is true; that said corporation has at this time a right to the use of the trade-mark therein described; that no other person, firm or corporation has a right to such use either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that it is used by said corporation

in commerce between the United States and foreign nations or Indian tribes and particularly with the Dominion of Canada and the Hawaiian Islands and Great Britain, and that the description and fac-similes presented for record truly represent the trade-mark sought to be registered.

ORLANDO M. BAKER.

Sworn to and subscribed before me, a notary public, this 13th day of February, 1895.

[L. S.] CHARLES S. CLEAVES,
Notary Public.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

THIS IS TO CERTIFY that the annexed is a true copy from the
Records of this office of the Certificate of
Registration, Statement, Declaration and Drawing, in the
matter of the

Trade-Mark

Registered by

G. & C. Merriam Co.,

January 1, 1907,

Number 59,187.

for

Dictionaries and Reference-Manuals.

The certificate of registration was granted for the term of twenty
years, and so far as is disclosed by the records of this office, said certificate
is still in full force and effect.

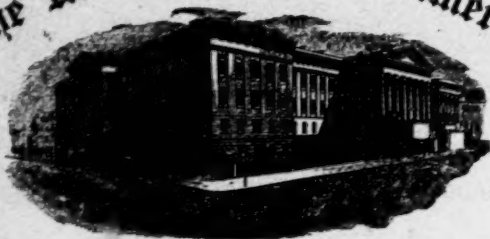
IN TESTIMONY WHEREOF I have hereunto set my
hand and caused the seal of the Patent Office to be
affixed at the City of Washington this 26th
day of March, in the year of our Lord
one thousand nine hundred and twelve and
of the Independence of the United States of America
the one hundred and thirty-sixth.

Assistant

Commissioner of Patents.

No. 59,167

The United States of America.



To all to whom these presents shall come:

This is to Certify That by the records of the UNITED STATES PATENT OFFICE it appears that G. & C. Merriam Co., of Springfield, Massachusetts, a corporation organized under the laws of the State of Massachusetts, did, on the 11th day of May, 1906, duly file in said Office an application for REGISTRATION of a certain

TRADE-MARKfor Dictionaries and Reference-Manuals,

that it duly filed therewith a drawing of the said TRADE-MARK, a statement relating thereto, and a written declaration, duly verified, copies of which are hereto annexed, and has duly complied with the requirements of the law in such case made and provided, and with the regulations prescribed by the COMMISSIONER OF PATENTS.

And, upon due examination thereof, it appearing that the said applicant... is entitled to registration of its said TRADE-MARK under the law, the said TRADE-MARK has been duly registered to G. & C. Merriam Co., and its SUCCESSORS OR ASSIGNS, in the UNITED STATES PATENT OFFICE, this 1st day of JANUARY, 1907.

This certificate shall remain in force for TWENTY YEARS, unless sooner terminated by law.

In testimony whereof I have hereunto set my hand and caused the seal of the PATENT OFFICE to be affixed, at the city of Washington, this first day of JANUARY in the year of our Lord one thousand nine hundred and seven and of the Independence of the United States the one hundred and thirty-first.

[SEAL]

F. I. Allen.

Commissioner of Patents.

TRADE-MARK.

REGISTERED JAN. 1, 1907.

No. 59,187.

G. & C. MERRIAM CO.
DICTIONARIES AND REFERENCE MANUALS.
APPLICATION FILED MAY 11, 1906.WEBSTER'S
COUNTINGHOUSE
AND
FAMILY*Proprietor*
G. & C. Merriam Co.
by Hall Heylman
at atty

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES AND REFERENCE-MANUALS.

No. 59,187.

Statement and Declaration.

Registered Jan. 1, 1906.

Application filed May 11, 1906. Serial No. 10,439.

STATEMENT.

To all whom it may concern:

Be it known that G. & C. MERRIAM CO., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing.

The trade-mark has been continuously used in the business of said corporation since 1892 and in the business of its predecessor since 1867.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of goods comprised in said class upon which

said mark is used is dictionaries and reference-manuals or combined dictionary and reference-manual.

The trade-mark is usually displayed upon the goods by imprinting or impressing the same directly upon the books and upon the packages in which the books are wrapped.

[L. s.]

G. & C. MERRIAM CO.

By H. C. ROWLEY,

Treasurer.

Approved:

O. M. BAKER,

President.

Witnesses:

BERTON E. HALE,

ALBERT BOEDEKER.

DECLARATION.

State of Massachusetts, county of Hampden,

ss:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use said trade-mark either in the identical form or in any such near resemblance thereto which might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several

States of the United States; that the description, drawing and facsimiles presented truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or its predecessors from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such use has been exclusive.

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.

[L. s.]

CHAS. S. CLEAVES,

Notary Public.

2-304

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

THIS IS TO CERTIFY that the annexed is a true copy from the
Records of this office of the Certificate of
Registration, Statement, Declaration and Drawing, in the
matter of the

Trade-Mark

Registered by

G. & C. Merriam Co.,

January 1, 1907,

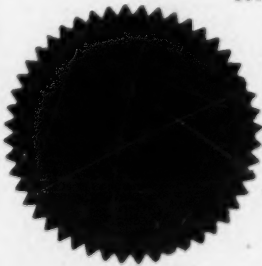
Number 59,188,

for

Dictionaries and Reference-Manuals.

The certificate of registration was granted for the term of twenty
years, and so far as is disclosed by the records of this office, said certificate
is still in full force and effect.

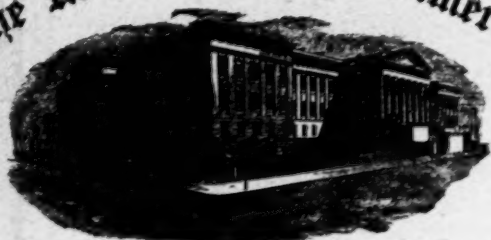
IN TESTIMONY WHEREOF I have hereunto set my
hand and caused the seal of the Patent Office to be
affixed at the City of Washington this 26th
day of March, in the year of our Lord
one thousand nine hundred and twelve and
of the Independence of the United States of America
the one hundred and thirty-sixth.



F. J. Merriam
Assistant Commissioner of Patents.

No. 59,188

The United States of America,



To all to whom these presents shall come:

This is to Certify That by the records of the UNITED STATES PATENT OFFICE it appears that G. & C. Merriam Co., of Springfield, Massachusetts, a corporation organized under the laws of the State of Massachusetts, did, on the 11th day of May, 1906, duly file in said Office an application for REGISTRATION of a certain

TRADE-MARKfor Dictionaries and Reference-Manuals,

that it duly filed therewith a drawing of the said TRADE-MARK, a statement relating thereto, and a written declaration, duly verified, copies of which are hereto annexed, and has duly complied with the requirements of the law in such case made and provided, and with the regulations prescribed by the COMMISSIONER OF PATENTS.

And, upon due examination thereof, it appearing that the said applicant is entitled to registration of its said TRADE-MARK under the law, the said TRADE-MARK has been duly registered to G. & C. Merriam Co., and its successors or assigns, in the UNITED STATES PATENT OFFICE, this 1st day of January, 1907.

This certificate shall remain in force for TWENTY YEARS, unless sooner terminated by law.

In testimony whereof I have hereto set my hand and caused the seal of the PATENT OFFICE to be affixed, at the city of Washington, this first day of January, in the year of our Lord one thousand nine hundred and seven and of the Independence of the United States the one hundred and thirty-first.

[SEAL.]

F. I. Allen,

Commissioner of Patents.

827

TRADE-MARK.

No. 59,188.

REGISTERED JAN. 1, 1907.

G. & C. MERRIAM CO.

DICTIONARIES AND REFERENCE MANUALS.

APPLICATION FILED MAY 11, 1906.

WEBSTER'S
ACADEMIC

Proprietor
G. & C. Merriam Co.
by Hall & Heylman
attys

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES AND REFERENCE-MANUALS.

No. 59,168.

Statement and Declaration.

Registered Jan. 1, 1907.

Application filed May 11, 1906. Serial No. 19,430.

STATEMENT.

To all whom it may concern:

Be it known that G. & C. MERRIAM Co., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at No. 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing.

The trade-mark has been continuously used in the business of said corporation since 1892 and in the business of its predecessor since 1867.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of goods comprised in said class upon which

said mark is used is dictionaries and reference manuals or combined dictionary and reference-manual.

The trade-mark is usually displayed upon the goods by imprinting or impressing the same directly upon the books and upon the packages in which the books are wrapped.

[L. s.] G. & C. MERRIAM CO.,
By H. C. ROWLEY,
Treasurer.

Approved: O. M. BAKER,
President.

Witnesses:
BERTON E. HALE,
ALBERT BOEDEKER.

DECLARATION.

State of Massachusetts, county of Hampden,
ss:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement, that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief has the right to use said trade-mark either in the identical form or in any such near resemblance thereto which might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several States of the

United States; that the description, drawing and facsimiles presented truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or his predecessors from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such use has been exclusive.

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.

[L. s.] CHAS. S. CLEAVES,
Notary Public.

2-304

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

THIS IS TO CERTIFY that the annexed is a true copy from the
Records of this office of the Certificate of
Registration, Statement, Declaration and Drawing, in the
matter of the

Trade-Mark

Registered by

G. & C. Merriam Co.,

January 1, 1907,


Number 59,189,

for

Dictionaries.

The certificate of registration was granted for the term of twenty
years, and so far as is disclosed by the records of this office, said certificate
is still in full force and effect.

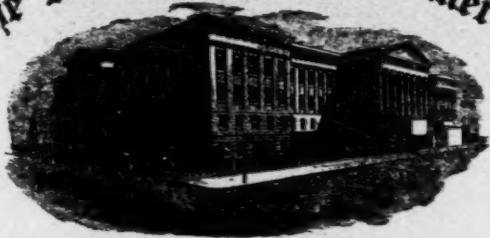
IN TESTIMONY WHEREOF I have hereunto set my
hand and caused the seal of the Patent Office to be
affixed at the City of Washington this 26th
day of March, in the year of our Lord
one thousand nine hundred and twelve and
of the Independence of the United States of America
the one hundred and thirty-sixth.



[Signature]
Assistant Commissioner of Patents.

No. 59,189

The United States of America,



To all to whom these presents shall come:

This is to Certify That by the records of the UNITED STATES PATENT OFFICE it appears that G. & C. Merriam Co., of Springfield, Massachusetts, a corporation organized under the laws of the State of Massachusetts, did, on the 11th day of May, 1906, duly file in said Office an application for REGISTRATION of a certain

TRADE-MARKfor Dictionaries,

that it duly filed therewith a drawing of the said TRADE-MARK, a statement relating thereto, and a written declaration, duly verified, copies of which are hereto annexed, and has duly complied with the requirements of the law in such case made and provided, and with the regulations prescribed by the COMMISSIONER OF PATENTS.

And, upon due examination thereof, it appearing that the said applicant is entitled to registration of its said TRADE-MARK under the law, the said TRADE-MARK has been duly registered to G. & C. Merriam Co., and its successors or assigns, in the UNITED STATES PATENT OFFICE, this 1st day of January, 1907.

This certificate shall remain in force for TWENTY YEARS, unless sooner terminated by law.

In testimony whereof I have hereunto set my hand and caused the seal of the PATENT OFFICE to be affixed, at the city of Washington, this first day of January in the year of our Lord one thousand nine hundred and seven and of the Independence of the United States the one hundred and thirty-first.

[SEAL.]

F. I. Allen,

Commissioner of Patents.

TRADE-MARK.

No. 59,189.

REGISTERED JAN. 1, 1907.

G. & C. MERRIAM CO.

DICTIONARIES.

APPLICATION FILED MAY 11, 1906.

WEBSTER'S
COMMON SCHOOL

Proprietor
G. & C. Merriam Co.
by H. A. & H. L. Merriam
to copy.

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES.

No. 59,189.

Statement and Declaration.

Registered Jan. 1, 1907.

Application filed May 11, 1906. Serial No. 19,432.

STATEMENT.

To all whom it may concern:

Be it known that G & C. MERRIAM CO., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at No. 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing

*The trade-mark has been continuously used in the business of said corporation since 1892 and in the business of its predecessor since 1867.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of

goods comprised in said class upon which said mark is used is dictionaries.

The trade-mark is usually displayed upon the goods by inprinting or impressing the same directly upon the books and upon the packages in which the books are wrapped.

[L. s.]

G. & C. MERRIAM CO.,
By H. C. ROWLEY,
Treasurer.

Approved

O. M. BAKER.
President.

Witnesses:

BERTON E. HALE,
ALBERT BOEDEKER.

DECLARATION.

State of Massachusetts, county of Hampden,
ss:

ORLANDO M BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief has the right to use said trade-mark either in the identical form or in any such near resemblance thereto which might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several

States of the United States; that the description, drawing and facsimiles truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or its predecessors from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such use has been exclusive

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.

[L. s.]

CHAS. S. CLEAVES,
Notary Public.

2-3804

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

THIS IS TO CERTIFY that the annexed is a true copy from the
Records of this office of the Certificate of
Registration, Statement, Declaration and Drawing, in the
matter of the

Trade-Mark

Registered by

G. & C. Merriam Co.,

January 1, 1907,

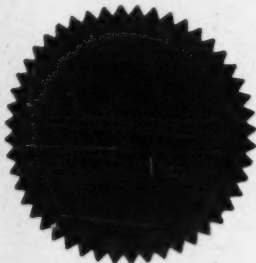
Number 59,130,

for

Dictionaries.

The certificate of registration was granted for the term of twenty
years, and so far as is disclosed by the records of this office, said certificate
is still in full force and effect.

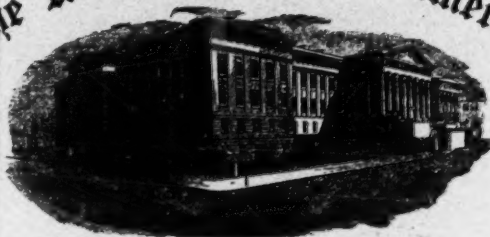
IN TESTIMONY WHEREOF I have hereunto set my
hand and caused the seal of the Patent Office to be
affixed at the City of Washington this 26th
day of March in the year of our Lord
one thousand nine hundred and twelve and
of the Independence of the United States of America
the one hundred and thirty-sixth.



F. A. Johnson
Assistant Commissioner of Patents.

No. 59,130

The United States of America.



To all to whom these presents shall come:

This is to Certify That by the records of the UNITED STATES PATENT OFFICE it appears that G. & C. Merriam Co., of Springfield, Massachusetts, a corporation organized under the laws of the State of Massachusetts, did, on the 17th day of May, 1906, duly file in said Office an application for REGISTRATION of a certain

TRADE-MARK

for Dictionaries,

that it duly filed therewith a drawing of the said TRADE-MARK, a statement relating thereto, and a written declaration, duly verified, copies of which are hereto annexed, and has duly complied with the requirements of the law in such case made and provided, and with the regulations prescribed by the COMMISSIONER OF PATENTS.

And, upon due examination thereof, it appearing that the said applicant is entitled to registration of its said TRADE-MARK under the law, the said TRADE-MARK has been duly registered to G. & C. Merriam Co., and its successors or assigns, in the UNITED STATES PATENT OFFICE, this 1st day of January, 1907.

This certificate shall remain in force for TWENTY YEARS, unless sooner terminated by law.

In testimony whereof I have hereto set my hand and caused the seal of the PATENT OFFICE to be affixed, at the city of Washington, this first day of January in the year of our Lord one thousand nine hundred and seven and of the Independence of the United States the one hundred and thirty-first.

[SEAL.]

F. I. Allen,

Commissioner of Patents.

TRADE-MARK.

No. 59,130.

REGISTERED JAN. 1, 1907.

**G. & C. MERRIAM CO.
DICTIONARIES.**

APPLICATION FILED MAY 17, 1906.

**WEBSTER'S
PRIMARY**

Proprietor
G. & C. Merriam Co.
by Hall & Holliman
attys.

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES.

No. 59,130.

Statement and Declaration.

Registered Jan. 1, 1907.

Application filed May 17, 1906. Serial No. 19,818.

STATEMENT.

To all : whom it may concern:

Be it known that G. & C. MERRIAM Co., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at No. 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing.

The trade-mark has been continuously used in the business of said corporation since 1892 and in the business of its predecessor since 1867.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of

goods comprised in said class upon which said mark is used is dictionaries.

The trade-mark is usually displayed upon the goods by imprinting or impressing the same directly upon the books and upon the packages in which the books are wrapped.

[L. s.]

G. & C. MERRIAM CO.,
By H. C. ROWLEY,

Treasurer.

Approved:

O. M. BAKER,
President.

Witnesses:

BERTON E. HALE,
ALBERT BOEDEKER.

DECLARATION.

State of Massachusetts, county of Hampden,
ss:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief has the right to use said trade-mark either in the identical form or in any such near resemblance thereto which might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several States

of the United States; that the description, drawing and facsimiles truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or its predecessors from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such use has been exclusive.

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.

[L. s.]

CHAS. S. CLEAVES,
Notary Public.

837

2-304

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

THIS IS TO CERTIFY that the annexed is a true copy from the
Records of this office of the Certificate of
Registration, Statement, Declaration and Drawing, in the
matter of the

Trade-Mark

Registered by

G. & C. Merriam Co.,

January 1, 1907,

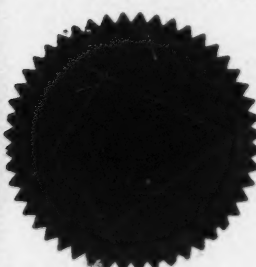
Number 59,191,

for

Dictionaries and Reference-Manuals.

The certificate of registration was granted for the term of twenty
years, and so far as is disclosed by the records of this office, said certificate
is still in full force and effect.

IN TESTIMONY WHEREOF I have hereunto set my
hand and caused the seal of the Patent Office to be
affixed at the City of Washington this 26th
day of March in the year of our Lord
one thousand nine hundred and twelve and
of the Independence of the United States of America
the one hundred and thirty-sixth.



F. D. Mansur
Assistant Commissioner of Patents.

No. 59,191

The United States of America.



To all to whom these presents shall come:

This is to Certify That by the records of the UNITED STATES PATENT OFFICE it appears that G. & C. Merriam Co., of Springfield, Massachusetts, a corporation organized under the laws of the State of Massachusetts, did, on the 17th day of May, 1906, duly file in said Office an application for REGISTRATION of a certain

TRADE-MARK

for Dictionaries and Reference-Manuals,

that A. duly filed therewith a drawing of the said TRADE-MARK, a statement relating thereto, and a written declaration, duly verified, copies of which are hereto annexed, and he duly complied with the requirements of the law in such case made and provided, and with the regulations prescribed by the COMMISSIONER OF PATENTS.

And, upon due examination thereof, it appearing that the said applicant is entitled to registration of A. said TRADE-MARK under the law, the said TRADE-MARK has been duly registered to G. & C. Merriam Co., and its successors or assigns, in the UNITED STATES PATENT OFFICE, this 1st day of January, 1907.

This certificate shall remain in force for TWENTY YEARS, unless sooner terminated by law.

In testimony whereof I have herewith set my hand and caused the seal of the PATENT OFFICE to be affixed, at the city of Washington, this first day of January, in the year of our Lord one thousand nine hundred and seven, and of the Independence of the United States the one hundred and thirty-first.

[SEAL-]

F. I. Allen,

Commissioner of Patents.

839

TRADE-MARK.

No. 59,191.

REGISTERED JAN. 1, 1907.

G. & C. MERRIAM CO.

DICTIONARIES AND REFERENCE MANUALS.

APPLICATION FILED MAY 17, 1906.

· WEBSTER'S
CONDENSED

Proprietor
G. & C. Merriam Co.
by Hall & Ableson
1907

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES AND REFERENCE-MANUALS.

No. 59,191.

Statement and Declaration.

Registered Jan. 1, 1907.

Application filed May 17, 1906. Serial No. 19,615.

STATEMENT.

To all whom it may concern:

Be it known that G. & C. MERRIAM CO., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at No. 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing.

The trade-mark has been continuously used in the business of said corporation since 1892.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of goods comprised in said class upon which

said mark is used is dictionaries and reference-manuals or combined dictionary and reference-manual.

The trade-mark is usually displayed upon the goods by imprinting or impressing the same directly upon the books and upon the packages in which the books are wrapped.

[L. s.] G. & C. MERRIAM CO.,
By H. C. ROWLEY,

Treasurer.

Approved:

O. M. BAKER,
President.

Witnesses:

BERTON E. HALE,
RICHARD S. BETTES.

DECLARATION.

State of Massachusetts, county of Hampden, ss:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use said trade-mark either in the identical form or in any such near resemblance thereto which might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several States

of the United States; that the description, drawing and facsimiles truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or its predecessors, from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such has been exclusive.

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.

[L. s.]

CHAS. S. CLEAVES,
Notary Public.

2-304

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

THIS IS TO CERTIFY that the annexed is a true copy from the
Records of this office of the Certificate of
Registration, Statement, Declaration and Drawing, in the
matter of the

Trade-Mark

registered by

G. & C. Merriam Co.,

January 1, 1907,

Number 59,192,

for

Dictionaries and Reference-Manuals.

The certificate of registration was granted for the term of twenty
years, and so far as is disclosed by the records of this office, said certificate
is still in full force and effect.

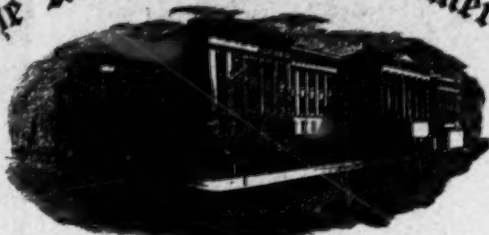
IN TESTIMONY WHEREOF I have hereunto set my
hand and caused the seal of the Patent Office to be
affixed at the City of Washington this 26th
day of March in the year of our Lord
one thousand nine hundred and twelve and
of the Independence of the United States of America
the one hundred and thirty-sixth.



W. D. Evans
Assistant Commissioner of Patents.

No. 59,192

The United States of America.



To all to whom these presents shall come:

This is to Certify That by the records of the UNITED STATES PATENT OFFICE it appears that G. & C. Merriam Co., of Springfield,
Massachusetts, a corporation organized under the
laws of the State of Massachusetts.

did, on the 17th day of May, 1906, duly file
in said Office an application for REGISTRATION of a certain

TRADE-MARK

for Dictionaries and Reference-
Manuals,

that it duly filed therewith a drawing of the said TRADE-MARK, a statement relating thereto, and a written declaration, duly verified, copies of which are hereto annexed, and has duly complied with the requirements of the law in such case made and provided, and with the regulations prescribed by the COMMISSIONER OF PATENTS.

And, upon due examination thereof, it appearing that the said applicant is entitled to registration of its said TRADE-MARK under the law, the said TRADE-MARK has been duly registered to G. & C. Merriam Co., and its successors or assigns, in the UNITED STATES PATENT OFFICE, this 1st day of JANUARY, 1907.

This certificate shall remain in force for TWENTY YEARS, unless sooner terminated by law.

In testimony whereof I have herewith set my hand and caused the seal of the PATENT OFFICE to be affixed, at the city of Washington, this first day of JANUARY in the year of our Lord one thousand nine hundred and SEVEN and of the Independence of the United States the one hundred and thirty-first.

(SEAL.)

F. I. Allen,

Commissioner of Patents.

843

TRADE-MARK.

o. 59,192.

REGISTERED JAN. 1, 1907.

G. & C. MERRIAM CO.

DICTIONARIES AND REFERENCE MANUALS.

APPLICATION FILED MAY 17, 1904.

WEBSTER'S
PRACTICAL

Proprietor
G. & C. Merriam Co.
by Hall & Appleman
10 City

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES AND REFERENCE-MANUALS.

No. 59,192.

Statement and Declaration.

Registered Jan. 1, 1907.

Application filed May 17, 1906. Serial No. 19,616.

STATEMENT.

To all whom it may concern:

Be it known that G. & C. MERRIAM CO., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at No. 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing.

The trade-mark has been continuously used in the business of said corporation since 1892.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of goods comprised in said class upon which said mark is used is dictionaries and reference-

manuals or combined dictionary and reference-manuals.

The trade-mark is usually displayed upon the goods by printing or impressing the same directly upon the books and upon the packages in which the books are arranged.

[L. s.] G. & C. MERRIAM CO.,

By H. C. ROWLEY,
Treasurer.

Approved:

O. M. BAKER,
President.

Witnesses:

BERTON E. HALE,
RICHARD S. BETTES.

DECLARATION.

State of Massachusetts, county of Hampden,
ss:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use said trade-mark either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several States of the

United States; that the description, drawing and facsimiles presented truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or its predecessors from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such use has been exclusive.

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.

[L. s.]

CHAS. S. CLEAVES,
Notary Public.

2-394

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

THIS IS TO CERTIFY that the annexed is a true copy from the
Records of this office of the Certificate of
Registration, Statement, Declaration and Drawing, in the
matter of the

Trade-Mark

Registered by

G. & C. Merriam Co.,

January 1, 1907,

Number 59,193,

for

Dictionaries.

The certificate of registration was granted for the term of twenty
years, and so far as is disclosed by the records of this office, said certificate
is still in full force and effect.

IN TESTIMONY WHEREOF I have hereunto set my
hand and caused the seal of the Patent Office to be
affixed at the City of Washington this 26th
day of March, in the year of our Lord
one thousand nine hundred and twelve and
of the Independence of the United States of America
the one hundred and thirty-sixth.

F. J. D. [Signature]
Assistant Commissioner of Patents.



No. 59,193

The United States of America,



To all to whom these presents shall come:

This is to Certify That by the records of the UNITED STATES PATENT OFFICE it appears that G. & C. Merriam Co., of Springfield, Massachusetts, a corporation organized under the laws of the State of Massachusetts, did, on the 17th day of May, 1906, duly file in said Office an application for REGISTRATION of a certain

TRADE-MARKfor Dictionaries.

that it duly filed therewith a drawing of the said TRADE-MARK, a statement relating thereto, and a written declaration, duly verified, copies of which are hereto annexed, and has duly complied with the requirements of the law in such case made and provided, and with the regulations prescribed by the COMMISSIONER OF PATENTS.

And, upon due examination thereof, it appearing that the said applicant is entitled to registration of its said TRADE-MARK under the law, the said TRADE-MARK has been duly registered to G. & C. Merriam Co., and its successors or assigns, in the UNITED STATES PATENT OFFICE, this 1st day of January, 1907.

This certificate shall remain in force for TWENTY YEARS, unless sooner terminated by law.

In testimony whereof I have hereunto set my hand and caused the seal of the PATENT OFFICE to be affixed, at the city of Washington, this first day of January in the year of our Lord one thousand nine hundred and seven and of the Independence of the United States the one hundred and thirty-first.

[SEAL.]

F. I. Allen,

Commissioner of Patents.

TRADE-MARK.

No. 59,193.

REGISTERED JAN. 1, 1907.

G. & C. MERRIAM CO.
DICTIONARIES.

APPLICATION FILED MAY 17, 1906.

WEBSTER'S
HIGH SCHOOL

Proprietor
G. & C. Merriam Co.
by John A. Stephens
attys

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES.

No. 59,193.

Statement and Declaration.

Registered Jan. 1, 1907.

Application filed May 17, 1906. Serial No. 19,817.

STATEMENT.

To all whom it may concern:

Be it known that G. & C. MERRIAM CO., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing.

The trade-mark has been continuously used in the business of said corporation since 1892 and in the business of its predecessor since 1867.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of

goods comprised in said class upon which said mark is used is dictionaries.

The trade-mark is usually displayed upon the goods by imprinting or impressing the same directly upon the books and upon the packages in which the books are wrapped.

[L. s.] G. & C. MERRIAM CO.,
By H. C. ROWLEY,
Treasurer.

Approved: O. M. BAKER,
President.

Witnesses:
BERTON E. HALE,
ALBERT BOEDEKER.

DECLARATION.

State of Massachusetts, county of Hampden,
ss:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use said trade-mark either in the identical form or in any such near resemblance thereto which might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several

States of the United States; that the description, drawing and facsimiles presented truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or its predecessors from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such use has been exclusive.

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.
[L. s.] CHAS. S. CLEAVES,
Notary Public.

2-304

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, Greeting:

THIS IS TO CERTIFY that the annexed is a true copy from the
Records of this office of the Certificate of
Registration, Statement, Declaration and Drawing, in the
matter of the

Trade-Mark

Registered by

G. & C. Merriam Co.,

January 8, 1907,


Number 59,473,

for

Dictionaries.

The certificate of registration was granted for the term of twenty
years, and so far as is disclosed by the records of this office, said certificate
is still in full force and effect.

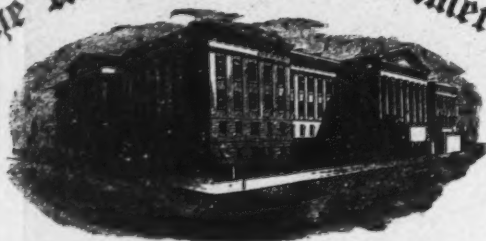
IN TESTIMONY WHEREOF I have hereunto set my
hand and caused the seal of the Patent Office to be
affixed at the City of Washington this 26th
day of March in the year of our Lord
one thousand nine hundred and twelve and
of the Independence of the United States of America
the one hundred and thirty-sixth.



F. A. Johnson
Assistant Commissioner of Patents.

No. 59, 473.

The United States of America



To all to whom these presents shall come:

This is to Certify That by the records of the UNITED STATES PATENT OFFICE it appears that G. & C. Merriam Co., of Springfield, Massachusetts, a corporation organized under the laws of the State of Massachusetts, did, on the 11th day of May, 1906, duly file in said Office an application for REGISTRATION of a certain

TRADE-MARK

for Dictionaries,

that it duly filed therewith a drawing of the said TRADE-MARK, a statement relating thereto, and a written declaration, duly verified, copies of which are hereto annexed, and has duly complied with the requirements of the law in each case made and provided, and with the regulations prescribed by the COMMISSIONER OF PATENTS.

And, upon due examination thereof, it appearing that the said applicant... is entitled to registration of its said TRADE-MARK under the law, the said TRADE-MARK has been duly registered to G. & C. Merriam Co., and its SUCCESSORS OR assigns, in the UNITED STATES PATENT OFFICE, this 8th day of January, 1907.

This certificate shall remain in force for TWENTY YEARS, unless sooner terminated by law.

In testimony whereof I have hereunto set my hand and caused the seal of the PATENT OFFICE to be affixed, at the city of Washington, this eighth day of January in the year of our Lord one thousand nine hundred and seven and of the Independence of the United States the one hundred and thirty-first.

[SEAL.]

P. J. Allen,

Commissioner of Patents.

851

No. 59,473.

TRADE-MARK.

REGISTERED JAN. 8, 1907.

G. & C. MERRIAM CO.
DICTIONARIES.

APPLICATION FILED MAY 11, 1906.

WEBSTER'S
NATIONAL PICTORIAL

Proprietor
G. & C. Merriam Co.
by Hall & Heylman
attys

UNITED STATES PATENT OFFICE.

G. & C. MERRIAM CO., OF SPRINGFIELD, MASSACHUSETTS.

TRADE-MARK FOR DICTIONARIES.

No. 59,473.

Statement and Declaration.

Registered Jan. 8, 1907.

Application filed May 11, 1906. Serial No. 19,431.

STATEMENT.

To all whom it may concern:

Be it known that G. & C. MERRIAM CO., a corporation duly organized under the laws of the State of Massachusetts, and having its principal place of business at No. 499 Main street, in the city of Springfield, State of Massachusetts, has adopted for its use the trade-mark shown in the accompanying drawing.

The trade-mark has been continuously used in the business of said corporation since 1892 and in the business of its predecessor since 1867.

The class of merchandise to which the trade-mark is appropriated is Class 68, Publications, and the particular description of

goods comprised in said class upon which said mark is used is dictionaries.

The trade-mark is usually displayed upon the goods by imprinting or impressing the same directly upon the books and upon the packages in which the books are wrapped.

[L. s.]

G. & C. MERRIAM CO.,
By H. C. ROWLEY,
Treasurer.

Approved:

O. M. BAKER,
President.

Witnesses:

BERTON E. HALE,
ALBERT BOEDEKER.

DECLARATION.

State of Massachusetts, county of Hampden,

ss:

ORLANDO M. BAKER, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use said trade-mark either in the identical form or in any such near resemblance thereto which might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several States of the

United States; that the description, drawing and facsimiles presented truly represent the mark sought to be registered, and that the mark has been in actual use as a trade-mark of the applicant, or its predecessors from whom it derived title, for ten years next preceding the passage of the act of February 20, 1905, and that to the best of his knowledge and belief such use has been exclusive.

ORLANDO M. BAKER.

Subscribed and sworn to before me, a notary public, this 5th day of May, 1906.

[L. s.]

CHAS. S. CLEAVES,
Notary Public.

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS
CHARLESTON

JUDGES

IRA E. ROBINSON PRESIDENT
HENRY BRANNON
GEORGE POFFENBARGER
WILLIAM H. MILLER
L. JUDSON WILLIAMS
WM. B. MATHEWS, CLERK

March 14, 1911.

G. & C. Merriam Co.,
Springfield, Mass.

Gentlemen:

For many years the members of this court have relied on Webster's as authority on the meaning of words. We are now using Webster's New International constantly. It is superb in clearness and completeness. Its definitions of legal words are particularly copious and accurate.

Respectfully,

L. Judson Williams
Henry Brannon
Geo. Poffenbarger
W. H. Miller
Ira E. Robinson

THE SUPREME COURT OF MINNESOTA
ST. PAUL

M. START, CHIEF JUSTICE
BROWN
LEWIS
JAGGARD
OBRIEN
ASSOCIATE JUSTICES

St. Paul, Minn.,

Nov. 21, 1910.

G. & C. Merriam Co.,

Springfield, Mass.

Gentlemen:-

Webster's Dictionary for many years has been used and relied upon with confidence by our court in cases involving the exact meaning of words, especially legal terms. An examination of your New International Dictionary leads me to the conclusion that it is the acme of excellency and utility.

Respectfully yours,

Charles H. Stark

Chief Justice of the Supreme
Court of Minnesota.

We fully concur in the opinions of the chief justice.

Calvin L. Brown
Chas. L. Lewis
John J. Jaggard
Thomas A. O'Brien
Associate Justices

JUDGES:

A. HUNTER BOYD CHIEF JUDGE
JOHN P. BRISCOE ASSOCIATE JUDGE
JAMES A. PEARCE "
SAMUEL D. SCHMUCKER "
N. CHARLES BURKE "
WM. H. THOMAS "
HAMMOND URNER. "
JOHN R. PATTISON. "

C. C. MAGRUDER,
CLERK



Annapolis, December 7th 1910

The G. & C. Merriam Co.

Gentlemen.

The Webster Dictionaries have long been regarded by the members of this Court as essential in their work. It was therefore gratifying to us to know that a new edition was to be issued, as many words have come into use during the last decade which were not known at the beginning of that period.

Webster's New International Dictionary is so complete accurate and thorough that we believe it will meet every demand of those in need of an up to date dictionary. We cannot well speak in higher praise of it than to say, as we unhesitatingly do, that it is even better than its immediate predecessor.

Very truly yours,

A. Hunter Boyd
John P. Briscoe
John R. Pattison
Samuel D. Schmucker
James A. Pearce
Wm. H. Thomas
Hammond Urner

SUPREME COURT OF INDIANA

W. H. JORDAN	1 ST DIST.	MARTINSVILLE.
W. MONTGOMERY	2 ND DIST.	SEYMOUR.
W. MADLEY	3 RD DIST.	INDIANAPOLIS.
W. J. MONKS	4 TH DIST.	WINCHESTER.
W. MYERS	5 TH DIST.	LOGANSPORT.

INDIANAPOLIS

December 14, 1910.

Webster's Dictionaries have always been recognized and relied on as standard authority. They have been characterized by precision and clearness of definition, and are constantly at hand in the Consultation room and in the Chambers of the Justices. The late edition, or New International, contains a departure from the ordinary lexicon making, at once novel and to the student invaluable, in the divided page in the latter portion of which rare or obsolete, derivative and scientific words, abbreviations and foreign phrases are found separated from the text words proper. It is all that can be desired, or at least all that can be suggested in lexicon making, and its publishers are to be congratulated upon this great work, and the excellence of its execution.

<i>Quincy A. Myers</i>	Chief Justice.
<i>W. H. Jordan</i>)
<i>W. Montgomery</i>) Associate
<i>W. Madley</i>) Justices.
<i>W. J. Monks</i>)

facsimil

STATE OF IOWA.
SUPREME COURT.
DES MOINES, IOWA.

857

HORACE E. DEEMER, REED OAK
SCOTT M. LADD, SHELDON.
JOHN C. SHERWIN, MASON CITY
EMLIN MCCLAIN, IOWA CITY
SILAS M. WEAVER, IOWA FALLS.
WILLIAM D. EVANS, HAMPTON. } JUDGES.

CONSULTATION ROOM.

The leading place which for more than a half century Webster's Dictionary has held among works of its kind, is confirmed and reassured by the unquestioned excellence of its latest edition. The New International is a complete Dictionary, compiled and presented in a manner which leaves nothing to be desired in the way of availability or convenience. Its crowning merit is in the comprehensive scope of its usefulness. No man who speaks or writes the English language is so learned or so unlearned that he may not derive profit from its use. It is the handy reference book of all our people when met with any question as to the derivation, history, meaning, orthography or pronunciation of words of their mother tongue. We have constantly recurring occasion for its aid in our consultation room and find it in every way satisfactory. Indeed we consider it an indispensable part of our library.

Very truly yours,

S. M. Weaver
Emlin McClain
W. D. Evans
Scott M. Ladd
John C. Sherwin
H. E. Deemer

simile

Supreme Court Chambers
STATE OF COLORADO
Denver

CAMPBELL
Chief Justice .

February 18, 1911.

G. & C. Merriam Company,
Springfield, Mass.

Gentlemen:-

From the organization of the Supreme Court of Colorado Webster's Dictionary, in some of its various editions, has been in the Supreme Court library and in the chambers of the judges. The members of the court have, during these years, constantly and almost daily had occasion to resort to this invaluable dictionary in the preparation of their opinions. It has been found a most useful and valuable work and is especially full, complete and accurate in its legal definitions. The new edition, Webster's New International Dictionary, bears every evidence of the exhaustive research, skill and care which have characterized the previous editions. No one volume edition of any dictionary is superior, and it is doubtful if any is equal, to Webster. It is worthy of a place in all libraries, public and private, and practically indispensable to every one who wishes to use with accuracy and discrimination the English language.

Respectfully,

John Campbell
Chief Justice,

William H. Gabbard

A. Harrison White

William A. Hill

James E. Garriques
Morton S. Bailey
Associate Justices

The Supreme Court of Texas
Austin.

January 1, 1911.

G. & C. Merriam Company,

Springfield, Mass.

Gentlemen:

Our Supreme Court has used "Webster's Dictionary" in its official work for many years, regarding it as the best authority on all questions within its scope. We have your latest edition which marks a decided advance in the making of dictionaries, the excellence of former editions being preserved and new and valuable features added.

Respectfully,

R. R. Harris Chf Justice
J. J. Brown
J. A. Williams



GAVON D. BURGESS,
CHIEF JUSTICE
JACOB DALLEN,
CLERK

DIVISION NO 1
HENRY LAMM, D.J.
LEROY B. VALLIANT, J.
A. M. WOODSON, J.
W. W. GRAVES, J.

STATE OF MISSOURI, SUPREME COURT

DIVISION NO 2
JAMES B. GANTT, D.J.
GAVON D. BURGESS, J.
JOHN KENNISH, J.

JEFFERSON CITY

December 1, 1910.

C. Merriam Company
Springfield,
Mass.

Gentlemen:

We regard Webster's New International Dictionary as a truly great work. For comprehensiveness, exactness, lucidity and scholarship it is superior to its predecessors. The division of the page into sections, the upper containing the words in general use, and the lower incorporating foreign phrases, proverbs, obsolete terms, etc., is a novel and excellent arrangement for facilitating consultation. By this means every word and term, domestic or foreign, common or uncommon, is at hand and easy of access.

Special attention seems to have been paid to the treatment of law words, the definitions of which, so far as we have consulted them, are accurate and authoritative. Webster has long been a ready and reliable authority to the bench in cases involving the interpretation of words, and the scope and completeness of the present work render it correspondingly useful and valuable.

Respectfully,

G. D. Burgess C.J.
Leroy B Valliant
A. M. Woodson,
James B Gantt
Henry Lamm
John Kennish.
W. W. Graves

November 14th, 1910

C. Merriam Company,
 Springfield, Mass.

Gentlemen:-

In no field of human effort is the exactly apt use of words imperative and more vital than in the statement of fact and law. Words of dernier resort. Juridical pronouncement is worse than if loose, inaccurate terms are employed in its statement. With rare exceptions law-writers cannot be safely, solely, self-reliant in supplying and selection of terms to express the Law. They must, and must of necessity, consult the result of the work of the specialists in Language, and from that authority at least supplement even, in rare cases, great information in that sphere.

To Webster's earlier Dictionaries may be traced the casting of careless judicial conclusions, especially in the performance of the very important duty of construing or interpreting constitutions, laws, and contracts inter partes.

Webster's New International Dictionary, just issued, not only possesses all the virtues and values of the parent editions, but also readily accessible a vast deal of new matter not contained in earlier editions, notably in the field of encyclopaedic information. It includes words of newer coinage; and embraces a wider range of discrimination in the citation of synonyms of words defined. The new work is excellent, and we commend it unqualifiedly.

Yours very truly,

J. R. Dondell, Chief Justice
 B. J. Simpson
 J. W. Anderson
 H. C. W. Gilliam
 J. Mayfield
 A. D. Day
 R. A. Evans.

SUPREME COURT OF ERRORS,
HARTFORD, CONNECTICUT

Dec 16 1910

J. C. Merriam Esq
Springfield, Mass.

Dear Sir:-

We find your New International
the same invaluable book that the
Webster dictionaries have always
been.

Frederic B. Hall
Chief Justice of Supreme
Court of Errors of Connecticut
Samuel O. Proutie.
John M. Thayer
Alberto J. Raraback.
George W. Wheeler
Associate Justices-

STATE OF MAINE
Supreme Judicial Court
Ellsworth.

Webster's New International Dictionary maintains the reputation which its predecessors enjoyed for superiority in excellence of its definitions. It is a distinct improvement on its immediate predecessor and in our opinion is the best dictionary in existence for the man of affairs as well as the professional man to have upon his desk for practical daily use. It makes special appeal to the lawyer and the law student on account of its concise and yet full and accurate definitions of legal terms and phrases.

Augusta, Maine. December 8, 1910.

Wm P Whitehouse
H M Spear
Lester C Cornish
F E Bond
Amos W King
Henry D. Peabody
A R. Savage

of Washington
Supreme Court
REINHART, CLERK

FRANK M. RUDKIN, CHIEF JUSTICE
JUDGES
R. O. DUNBAR MARK A. FULLERTON
S. J. CHADWICK HERMAN D. CROW
GEORGE E. MORRIS EMMETT H. PARKER

Olympia, Washington, Nov. 26, 1910. 19

G. & C. Merriam Company,
Springfield, Mass.

Dear Sirs:-

We have had occasion to examine Webster's New International Dictionary recently published by you. We are pleased to say that we regard it as the best Dictionary of our language ever published. The vast amount of information contained in the volume besides that which, strictly speaking, belongs in a Dictionary is a feature of great help in acquiring correct use of words. We believe it safe to assert that no other single volume ever published contains as much useful information as Webster's New International Dictionary. It will continue, as its predecessors have been, an authoritative guide in our work.

Respectfully,

Frank H. Rudkin

Herman D. Crow

S. J. Chadwick
G. E. Morris

Wallace Mount.

Emmett H. Parker

M. F. Crow
R. O. Dunbar

Mark A. Fullerton

simile



COURT OF APPEALS OF KENTUCKY
FRANKFORT.

February 16, 1911.

Dear Sirs.

We used the former edition of your "Webster's International", and found it a safe and sure refuge in every time of need. We have examined the new edition and find the work brought down to date. Much is added to the value of the book in the new edition. It is the court's usual reference book on definition, and we find it of great value to us in our work.

J. P. Hobson, Chief Justice
John W. Carroll
John M. Lasswell
T. J. Nunn
H. C. O'Hear
W. E. Settle
Shackelford Miller

Justices

G. & C. Merriam Co.
Springfield Mass.

Supreme Court
of the
State of Delaware.

Charles M. Curtis,
Chancellor
James Pennewill,
Chief Justice

H. Boyce,
C. Conrad,
B. Woodley,
C. Hastings,
Associate
Judges

G. & C. Merriam Company,
Springfield, Mass.

Gentlemen:-

Your company is entitled to congratulations on the completion of Webster's New International Dictionary. When compared with the first dictionary published by you in 1843, the progress shown is remarkable, but to the ordinary person who uses a dictionary from time to time it is almost incredible that your New International shows such wonderful advance over the "Unabridged" of 1900.

You are in every sense keeping step with this progressive age, your recent publication goes beyond the dictionary standard and is encyclopedic in its scope and nature and cannot but be of the greatest use and value to those engaged in literary and scientific work, and indispensable to the members of the bench and bar. The International will necessarily be in constant demand by those who expound or decide the law.

Yours very truly,

Charles M. Curtis
Chancellor
James Pennewill C.J.
H. Boyce
C. Conrad
B. Woodley
C. Hastings

Dover, Delaware,

November 18, 1910..

State of North Dakota
SUPREME COURT.

Bismarck, N. D. Dec. 7, 1910.

& C. Merriam Company,
Springfield, Mass.

Gentlemen:--

For many years Webster's International Dictionary
has been the standard in this court. After examination and use of
WEBSTER'S NEW INTERNATIONAL DICTIONARY we are prepared to say that
it will more than take the place of the old International.

Aside from being authority on all matters on which a dictionary
is ordinarily consulted, the value of the work to the legal profess-
ion is greatly increased by the most comprehensive and accurate system
of legal definitions which it contains. This volume will be inval-
uable alike in every private and public law library.

D. E. Morgan Chief Justice.
B. H. Spalding,
C. J. Fish
J. C. Larmyer Judges.
H. E. Ellsworth

Jan. 14, 1911.

. & C. Merriam Co.,

Springfield, Mass.

Gentlemen:-

Your New Webster's International Dictionary has been used by us constantly since its publication. The definitions of legal terms and phrases we find to be remarkable for their completeness, accuracy and conciseness. No matter more valuable to the legal profession and courts, could be compressed into the same space. Both in scope and method, the entire work seems to us a distinct improvement over its predecessors, valuable as they always have been among works of their kind.

Very respectfully yours,

E. G. Smith
Chas. S. Whiting
W. Corson
J. M. Co.
Rich. H. H. H.
Judges.

State of Florida
Supreme Court
Tallahassee

January 9 1911

the G. & C. Merriam Co.,

Springfield, Mass.

Gentlemen:-

We have examined your Webster's New International Dictionary and find it to be a great improvement upon its predecessors. In our judicial work we have frequent occasion to refer to it, particularly for different shades of meaning between synonyms, and we always consult it with confidence that the information sought for will be authoritatively correct. We regard it, by long odds, the best dictionary available.

Respectfully yours,

J. B. Whitfield
R. F. Taylor
J. M. Shackelford
R. S. Cochrane
C. B. Parkhill

W. A. Rucker

COMMONWEALTH OF MASSACHUSETTS.
SUPREME JUDICIAL COURT.
COURT HOUSE, BOSTON.

amazing every subject that
people can have a place
in such a book, and the fullness
and accuracy of its definition
will almost certainly give
it precedence over all others
among those for whom who
want a single dictionary
for every kind of uses.

Marcus P. K. Norton
Chief Justice of the Supreme Judicial Court

Oct 13 1910

To the Hon. Mr. Justice
For nearly twenty
years I have used Webster's
International Dictionary in
writing legal opinions and
for general reference, and
have found that it satis-
fied my requirements
better than any other book
of its class.

The New International
Dictionary, just published,
is a thorough reconstruc-
tion and enlargement of
the former work, and a great
improvement upon it. Its
breadth and variety of materials,

871
Trenton N. J. January 20th 1911
Supreme Court Chambers.

G. & C. Merriam Co.

Springfield, Mass.

Gentlemen:

Referring to an earlier edition of your dictionary, the then members of this Court said: "Constant reliance upon Webster's International Dictionary for the exact meaning and precise definition of English words has proved eminently satisfactory to us". The authoritative character thus attributed by our predecessors to the earlier edition is unhesitatingly accorded by us to your new and improved edition, enriched as it is by comprehensive definitions of technical legal terminology.

Wm. S. Gummere
Chief Justice

Cl. Garrison
Francis J. Swayze
Asa D. Reed
Thomas W. Treichard
Charles W. Parker
J. Bergen
J. P. Voorhes
H. M. Minnow

Associate
Justices.

Helena, Montana, November 19, 1910.

The members of the Supreme Court of Montana have each been furnished, for many years last past, with a copy of Webster's International Dictionary. It has been considered by them as the best work of the kind in the English language. The New International of 1910 is now at hand. The ~~work~~ work has been greatly enlarged and improved. As an aid to literary and professional men it is indispensable. It is often cited by us, as an inspection of the reports of the court will disclose, and always with confidence in its absolute correctness.

Theo. Crantly

Chief Justice.

Henry C. Smith

Associate Justice.

Wm. H. Hareway

Associate Justice.

873

Supreme Court
OF MICHIGAN

Lansing, November 18, 1910.

G. & C. Merriam Company, Publishers,
Springfield, Massachusetts.

Gentlemen:-

The 1910 edition of Webster's New International Dictionary marks an advance even upon its excellent predecessor. We find it a valuable reference library in itself, and are pleased with it.

Yours truly,

Flavius L. Brooke
Aaron V. Albee
John W. Stone
Frank A. Barker
Justices of
Supreme Court

The other Justices will write individual letters.

874
The Supreme Court

Providence

December 22, 1910.

Messrs. G. & C. Merriam Company.

Gentlemen:

Since our predecessors expressed their unqualified approval of Webster's International Dictionary the membership of the Court has undergone a complete change, but there has been no change of opinion concerning the merits of the dictionary which we have continued to use until the recent arrival of its successor. Our examination of Webster's New International Dictionary has been sufficient to convince us not only of its continued reliability but also of the convenience and completeness of its modern improvements which leave little or nothing to be desired.

Edward Church Dubois, Chief Justice.
Charles H. Johnson
C. Frank Fitchman.
William H. Swettland

} Associate Justices

The State of Wisconsin
Supreme Court Chambers
Madison

November 15, 1910.

Messrs. G. & C. Merriam. *C*

Springfield, Massachusetts.

Gentlemen:

We have always kept Webster's International Dictionary on the table in our consultation room and it is constantly referred to. We shall doubtless do the same with the new International, which not only presents new and desirable features but covers the latest advances in human knowledge.

To my mind it is the ideal single-volume dictionary.

Very truly yours,

Chas B Winslow
CJ

876
The State of Wisconsin

Supreme Court Chambers

Madison

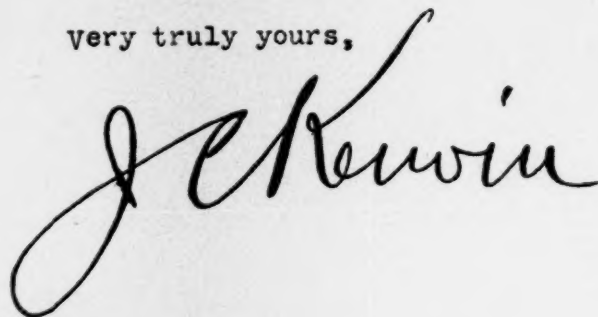
March 27, 1911.

G. & C. Merriam Company,

Springfield, Mass.

Gentlemen:-- The complimentary copy of Webster's new International Dictionary received, for which I thank you. Have already had occasion to refer to it many times finding all definitions most complete and comprehensible. It occupies a prominent position in my library as I consider it indispensable.

Very truly yours,



The State of Wisconsin

Supreme Court Chambers

Madison

Nov. 7, 1910.

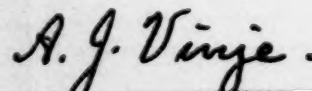
G. & C. Merriam Co.,

Springfield, Mass.

My dear Sirs:-

Since Webster's International Dictionary was published I have constantly used it both in my home and office-- before that the Unabridged. For the last two months I have used the New International. In my opinion it has reached a degree of excellence that will make it the standard for another generation. I know of no better dictionary for every day use.

Respectfully,



FACSIMILE.

The State of Wisconsin
Supreme Court Chambers

Madison

Apr. 6, 1911

Messrs. G. C. Merriam Co.

Springfield, Mass.

Gentlemen,

By statute in this state, section 343 R. S. of 1898, Webster's International Dictionary is made authority on all questions of orthography, thus adding to its intrinsic value legislative recognition. On all debatable questions in this field, therefore, all other works of this kind must yield to Webster's International in Wisconsin in case of conflict. Aside from this we recognize the exalted merits of the work and use it in preference to other dictionaries.

Yours truly,

W. H. Timlin.

The Supreme Court of Wyoming
Cheyenne

CHARLES N. POTTER, Chief Justice
LEWIS BEARD,
RICHARD H. SCOTT, } Justices
WILLIAM H. KELLY, Clerk

Cheyenne, Wyo., Dec. 21, 1910.

Messrs. G. & C. Merriam Co.,
Springfield, Mass.

Dear Sirs:-

For some time we have been using Websters New International Dictionary and have examined it with considerable care. The new work is a great improvement upon the excellent edition of 1900, and contains much new matter, made necessary by the changes in and additions to our language since the former edition was published. It appears to have been carefully and ably edited, the mechanical work is excellent and the volume is handsomely and substantially bound, making it a most convenient and complete Dictionary for use in the office, countingroom, school or home; and as such we take pleasure in recommending it.

Charles N. Potter
Lewis Beard
Richard H. Scott

Justices.

The Supreme Court of Kansas.

Topeka.

DELBERT A. VALENTINE, CLERK.
LLEWELLYN J. GRAHAM, REPORTER.

Nov. 17, 1910.

An examination of Webster's New International Dictionary discloses that it is an enlarged and greatly improved edition of the earlier International. A feature of the work which lawyers will appreciate is that definitions of words of legal usage are accurate and conform with judicial interpretation as found in the latest decisions of the highest courts of the country. The New International may well be regarded as the standard of authority upon all questions upon which a dictionary is consulted. It is indispensable to anyone who wishes to speak or write the English language correctly. We use it and cite it continually.

W. A. Johnston
H. F. Mason
Clark A. Smith
Sess Porter
Chas B Graves
Alfred W. Benson

SUPREME COURT OF ILLINOIS.

Webster's New International Dictionary retains all of the excellence of the previous edition and has added new features which make it a comprehensive, up-to-date dictionary of the English language. We regard it as a standard of excellence, both as to the orthography and definitions of all words in our language.

Signed,

Abner H. Vickers. Chief Justice.

James H. Cartwright
Geo. S. Hand Justices.

William M. Farmer

Armin H. Carter

Frank H. Dunn

Geo. H. Coate

Springfield Ill.

October 24" 1910.

STATE OF VIRGINIA
SUPREME COURT OF APPEALS
RICHMOND

JAMES KEITH, PRESIDENT
HARD H. CARDWELL
JOHN A. BUCHANAN
GEORGE M. HARRISON
STAFFORD G. WHITTLE

January 10, 1911.

Until the appearance of the most recent edition of Webster's New International Dictionary (1911), we had deemed it well-nigh impossible to improve upon that which preceded it. We find, however, that intelligent and conscientious effort has added greatly to its usefulness, not only with respect to its encyclopaedic features, but as a dictionary of the language for the great body of the community, and especially for those engaged in literary, scientific and professional pursuits.

James Keith
R. H. Cardwell
John A. Buchanan
George M. Harrison
Stafford G. Whittle



SUPREME COURT OF PENNSYLVANIA
JUDGES' CHAMBERS.

HON. D. NEWLIN FELL, CHIEF JUSTICE.
HON. J. HAY BROWN, JUSTICE.
HON. S. LESLIE MESTREZAT, JUSTICE.
HON. WILLIAM R. POTTER, JUSTICE.
HON. JOHN R. ELKIN, JUSTICE.
HON. JOHN STEWART, JUSTICE.
HON. ROBERT VON MOSCHISKE, JUSTICE.

Philadelphia, April 25, 1911.

The definition of legal terms in Webster's New International Dictionary, in fullness and accuracy, is a feature which greatly commends the work to our approval and acceptance. The fact that the work is so widely employed to meet educational, professional and business demands sufficiently attests its general excellence. Our reference to its definition of legal terms is only because this particular feature has received from us special examination and consideration. As a whole, it is a compendium that embraces everything desired in a dictionary, while in point of accuracy it has no superior.

G. & C. Merriam Company,
Springfield, Mass.

D. Newlin Fell.
J. Hay Brown.
S. Leslie Mestrezat.
William R. Potter.
John R. Elkin.
John Stewart.
Robert von Moschiske.

WALTER CLARK, Chief Justice.

JOSEPH D. WALKER
ROBE H. BROWN, JR.
LIAM A. HOKE
JES S. MANNING

ASSOCIATE JUSTICES

State of North Carolina
Supreme Court
Raleigh

November 21st, 1910.

G. & C. Merriam Company,
Springfield, Mass.

Dear Sirs:

We take pleasure in stating that we deem Webster's International Dictionary as high authority. It has often been referred to by this Court, and no other work has been so much relied upon for correct definitions and other reliable information. It is a valuable book in all of its departments.

We have no hesitation in recommending it as a standard dictionary.

Walter Clark

Chief Justice

J. D. Walker

Robt H Brown

W. A. Hoke

J. S. Manning

Associate Justices.

State of Idaho
Supreme Court

BOISE

March 4, 1911.

GEO. H. STEWART, CHIEF JUSTICE
JAMES F. AILSHIE, JUSTICE
ISAAC N. SULLIVAN, JUSTICE

Messrs. G. & C. Merriam Company,
Springfield, Mass.

Gentlemen;-

We have been using and have examined with some care Webster's New International Dictionary, recently published by you, and it affords us pleasure to say that the definitions of legal terms, and, in fact, of all words and phrases, are remarkable for their accuracy, completeness and conciseness. The entire work is a distinct improvement over its excellent predecessors.

Very respectfully,

Geo. H. Stewart Chief Justice
James F. Ailshie
Isaac N. Sullivan } Justices

Supreme Court of Arizona,

Phoenix,

November 15th, 1910.

Messrs. G. & C. Merriam Co.,

Springfield, Mass.

Gentlemen:

Webster's New International Dictionary maintains the high standard of former editions. Its definitions are succinct, clear, and to this, as to other courts, satisfactory as is evidenced by the frequency of citation as authority. The typographical devices, particularly the divided page, lessen the labor of consultation and thus add materially to its value.

Edmund Kent
.....
Chief Justice.

Hester M. Doan
.....
Associate Justice.

John H. Campbell
.....
Associate Justice.

W. K. Lewis
.....
Associate Justice.

Almon M. Doan
.....
Associate Justice.

STATE OF ARKANSAS.

LITTLE ROCK,

October 20th, 1910.

Messrs. G. & C. Merriam,

Springfield, Mass.

Dear Sirs:-

We have examined to some extent Webster's New International Dictionary - the 1911 edition just issued by you - and, so far as we are able to judge, as a dictionary of the English language it is about perfect. We do not see how it could be improved upon. It contains many new features not possessed by the old editions which especially commend it.

In addition to the enlargement of the vocabulary and the improvement of the definitions, it contains, besides the definition of the words, much data and information that one would generally expect to find only in an encyclopedia. The arrangement you have made whereby words that were formerly found in separate vocabularies, such as Foreign Phrases and Proverbs, Scripture Names, Names of Fictitious Persons, Abbreviations, etc., are now found with the general vocabulary, is certainly a most commendable feature. In these progressive days, time is very important, and the busy man likes to find, if he can, the word he wishes in one volume and under the vocabulary to which the word belongs, without taking the time necessary to search through several volumes and vocabularies.

Also, the division of the page whereby, in general, the words of less frequent use are arranged under a heavy black line at the bottom of the page, greatly facilitates consultation.

Many other new and desirable features could be mentioned, but let it suffice to say that there is no better Dictionary than the 1911 edition of Webster's New International.

Yours very truly,

Charles S. Hoar
B. B. Butler
Charles S. Hoar

Samuel Frauenthal
J. E. Hart

facsimile

SAN FRANCISCO, CAL.

Mar. 24, 1911.

G. & C. Merriam Co.,

Springfield, Mass.

Gentlemen:

We have used Websters New International Dictionary for a time sufficient to find that it is the most valuable work of its kind for general use. It is not a mere revision. The work of former editions is completely recast. The new method of grouping at the bottom of each page the unimportant and rare words we find very convenient in use. The many new words coined because of recent inventions and discoveries are to be found nowhere else, and they make the new work doubly useful. The definitions of law terms are entirely satisfactory.

Very truly yours,

W. H. Beatty
Chief Justice.

Lucien Shaw
Associate Justice

John M. Hall
Associate Justice

W. G. Loring
Associate Justice.

J. C. Don
Associate Justice.

J. W. Henshaw
Associate Justice

Henry A. Wilson
Associate Justice.

State of New York.

Court of Appeals.
Judges Chambers.

Albany, N. Y., March 15th, 1911.

The Judges of the Court of Appeals of the State of New York make constant use of Webster's New International Dictionary in the discharge of their official duties. They regard it as an unsurpassed authority, not only in matters relating to their particular work but generally in all work of a literary character. The definitions are full and exact; the quotations to illustrate the definitions numerous and well chosen; the synonyms discriminating and accurate, and the entire work stamped with industry and learning. The mechanical part, including paper, printing and engraving is satisfactory in all respects. The work is invaluable and not the less so because it is published in a single volume.

Spencer F. May
Albert Haight

Wm. F. Tamm

Wm. F. Tamm

Willard Bartlett

Emory A. Chase
Frederick Collins